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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0127; Product Identifier 2016–NM–161–AD; Amendment 39–19447; AD 2018–20–13]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all The Boeing Company Model 737 airplanes, excluding Model 737–100, –200, –200C, –300, –400, and –500 series airplanes; all Model 757–200, –200PF, –200CB, and –300 series airplanes; and all Model 767–200, –300, –300F, and –400ER series airplanes. This AD was prompted by reports of latently failed motor-operated valve (MOV) actuators of the fuel shutoff valves. This AD requires replacing certain MOV actuators of the fuel shutoff valves for the left and right engines (on certain airplanes) and of the auxiliary power unit (APU) fuel shutoff valve (on Model 757 and Model 767 airplanes); and revising the maintenance or inspection program to incorporate certain airworthiness limitations (AWLs). We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective November 15, 2018.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of November 15, 2018.

ADDRESSES: For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone: 562–797–1717; internet: *https://www.myboeingfleet.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0127.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0127; 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: Tak Kobayashi, Aerospace Engineer, Propulsion Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3553; email: *Takahisa.Kobayashi@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes; Model 757 airplanes; and Model 767 airplanes. The NPRM published in the **Federal Register** on March 9, 2017 (82 FR 13073). The NPRM was prompted by reports of latently failed MOV actuators of the fuel shutoff valves. The NPRM proposed to require replacing certain MOV actuators of the fuel shutoff valves for the left and right engines (on all airplanes) and of the APU fuel shutoff valve (on Model 757 and Model 767 airplanes); and revising the maintenance or inspection program, as applicable, to incorporate certain AWLs.

We subsequently issued a supplemental NPRM (SNPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Model 737 airplanes, excluding Model 737–100, –200, –200C, –300, –400, and –500 series airplanes; and all Model 757 and 767 airplanes. The SNPRM published in the **Federal Register** on April 3, 2018 (83 FR 14207). The SNPRM proposed to add Model 737–8 airplanes and future Model 737 airplanes to the applicability.

We are issuing this AD to address a latent failure of the actuator for the engine or APU fuel shutoff valves, which could result in the inability to shut off fuel to the engine or the APU, and, in case of certain engine or APU fires, could result in structural failure.

Republication

Editorial Note: Rule document 2018–21460 was originally published on pages 51304 through 51313 in the issue of Thursday, October 11, 2018. In that publication, on page 51307, in the second column, in (c)(1), ''Estimated –200'' should read ''–200''. The corrected document is published here in its entirety.

Comments

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

Request To Exclude Model 737–8 and Future Model 737

Boeing requested that we revise the proposed AD (in the SNPRM) to exclude Model 737–8 airplanes and future Model 737 airplanes, because MOV actuator part number MA30A1017 (Boeing P/N S343T003–76) is the only certified MOV actuator for use on any future Model 737 airplanes as documented in the drawings and Illustrated Parts Catalog (IPC). The commenter stated that using airworthiness limitations to prohibit the use of parts with AD restrictions on one minor model series (Model 737 next generation (NG) airplanes) from being used on a different minor model series (Model 737–8 and future Model 737 airplanes) that does not allow the use of the restricted parts is unnecessary and implies that certified configurations and ADs can be overridden via an Advisory Circular (AC) or other means.

We disagree with the commenter's request. The MOV actuator currently allowed on Model 737–8 and 737–9 airplanes, part number MA30A1017

(Boeing P/N S343T003–76), is the only part number certificated on those models, as documented in the manufacturer's drawings. However, manufacturer's proprietary drawings are not readily available to all affected operators, and there is no prohibition against installing MOV actuator part numbers that were determined unsafe in this AD. We have been informed by operators that the practice of rotating physically interchangeable parts among airplanes is widespread, and even a key part of their operations. In the absence of an AD or AWL that restricts the installation of the affected parts, we cannot be assured that the unsafe condition will not be introduced to Model 737–8, 737–9, and future 737 airplanes. In addition, ACs are advisory in nature and do not include mandatory actions. Therefore, ACs do not take precedence over ADs. We have not changed this AD regarding this issue.

Request To Remove Requirement To Revise Maintenance Program

Boeing requested that we remove paragraph (j) of the proposed AD and revise FAA AC 120–77 or other applicable advisory material to preclude installation of equipment that both Boeing and the FAA have determined cause a potential safety issue, against certified configurations. Boeing suggested that listing parts that are not approved for use on a given model sets a precedent that can become unmanageable, and that identifying parts that are acceptable for a given airplane and installation position is a more explicit and manageable approach. Boeing added that the use of AWLs to prohibit AD-driven part installations is unnecessary and implies that certified configurations and ADs can be overridden via an AC or other means.

We disagree with the commenter's request. The FAA is currently considering revising AC 120–77 to help prevent the rotation of parts as a minor alteration. However, ACs are advisory in nature and do not include mandatory actions. Therefore, ACs cannot prohibit the installation of unsafe equipment, and they do not take precedence over ADs. In addition, the practice of rotating parts is widespread, and revising the AC will not improve the situation in a timely manner. Certain MOV actuator part numbers have been identified to be unsafe for installation at certain locations. Since those part numbers continue to be available and acceptable for installation at certain other locations, we consider the use of AWLs to prohibit specific parts installation to be a reasonable way to address the safety concern in a timely manner. We have not changed this AD regarding this issue.

Request To Clarify Affected Part Numbers

FedEx requested that we revise paragraphs (h)(2) and (h)(3) of the proposed AD (in the SNPRM) to state that no replacement is necessary if the MOV actuator part number is one of the following alternative part numbers: AV–31–1 (Boeing P/N S343T003–111), MA11A1265 (Boeing P/N S343T003–14), or MA11A1265–1 (Boeing P/N S343T003–41). FedEx stated that the service information specified in paragraphs (h)(2) and (h)(3) of the proposed AD (in the SNPRM) explicitly state that those alternative MOV actuator part numbers are acceptable substitutes for P/N MA30A1017 (Boeing P/N S343T003–76).

We disagree with the commenter's request. However, we agree to clarify the requirements of paragraphs (h)(2) and (h)(3) of this AD. Paragraphs (h)(2) and (h)(3) of this AD require replacement of MOV actuator P/N MA20A2027 (Boeing P/N S343T003–56) and P/N MA30A1001 (Boeing P/N S343T003–66) with an acceptable MOV actuator part number. Those paragraphs do not state or imply that MOV actuator P/N AV–31–1 (Boeing P/N S343T003–111), P/N MA11A1265 (Boeing P/N S343T003–14), or P/N MA11A1265–1 (Boeing P/N S343T003–41) must be replaced. Therefore, we consider that adding the proposed statement is unnecessary. We have not changed this AD regarding this issue.

Request To Add a Terminating Action Provision

FedEx requested that we revise paragraphs (i)(2) and (i)(3) of the proposed AD (in the SNPRM) to state that the actuator installation would terminate the daily functional checks required by AWLs 28–AWL–ENG and 28–AWL–APU. The commenter added that installation of MOV actuator part number MA30A1017 (Boeing P/N S343T003–76) or an acceptable alternative part number should substantially increase the safety value.

We disagree with the commenter's request. We have determined that accomplishing the applicable maintenance or inspection program revisions specified in paragraph (j) of this AD are the appropriate terminating actions. As discussed previously in the preamble of the SNPRM, we included the conditions (accomplishing the applicable maintenance or inspection program revisions) that would terminate the requirements of AD 2015–21–10, Amendment 39–18303 (80 FR 65130, October 26, 2015); AD 2015–19–04, Amendment 39–18267 (80 FR 55505, September 16, 2015); and AD 2015–21–09, Amendment 39–18302 (80 FR 65121, October 26, 2015). Those ADs require incorporation of the AWLs that require repetitive inspections of specific MOV actuator part numbers installed at specific locations. The requirements of those ADs may be terminated if the applicable conditions specified in paragraph (m) of this AD are met. We have not changed this AD regarding this issue.

Request To Refer to Latest Service Information

Southwest Airlines requested that we refer to the latest revisions of the airworthiness limitations documents.

We agree with the commenter's request and have revised this AD to refer to the current airworthiness limitations as the appropriate source of service information, and have included earlier revisions of the service information as credit in this AD. There are no changes to the required actions of this AD because the tasks that must be incorporated into the maintenance or inspection program are not changed in Boeing 737–600/700/700C/800/900/900ER Special Compliance Items/Airworthiness Limitations, D626A001–9–04, Revision June 2018; Boeing 757 Maintenance Planning Data (MPD) Document, Section 9, Airworthiness Limitations (AWLS) and Certification Maintenance Requirements (CMRs), D622N001–9, Revision May 2018; or Boeing 767–200/300/300F/400 Special Compliance Items/Airworthiness Limitations, D622T001–9–04, Revision March 2018; except for Task 28–AWL–23 for Model 767–200, –300, –300F, and –400ER series airplanes, which adds instructions that further describe the conditions for performing electrical bonding resistance measurements, in addition to being more descriptive regarding cap seal application.

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 SNPRM for addressing the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the SNPRM.

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

We reviewed the following service information.

- Boeing Service Bulletin 737–28–1314, dated November 17, 2014, describes procedures for installing new MOV actuators of the fuel shutoff valves for the left and right engines on Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes.
- Boeing 737–600/700/700C/800/900/900ER Special Compliance Items/Airworthiness Limitations, D626A001–9–04, Revision June 2018, describes AWLs for fuel tank ignition prevention on Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes.
- Boeing Special Attention Service Bulletin 757–28–0138, Revision 1, dated June 19, 2017, describes procedures for installing new MOV actuators of the fuel shutoff valves for the left and right engines, and of the APU fuel shutoff valve, on Model 757 airplanes.
- Boeing 757 Maintenance Planning Data (MPD) Document, Section 9, Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), D622N001–9, Revision May 2018, describes AWLs for fuel tank ignition prevention on Model 757 airplanes.
- Boeing Service Bulletin 767–28–0115, Revision 1, dated June 2, 2016, describes procedures for installing new MOV actuators of the fuel shutoff valves for the left and right engines, and of the APU fuel shutoff valve, on Model 767 airplanes.
- Boeing 767–200/300/300F/400 Special Compliance Items/Airworthiness Limitations, D622T001–9–04, Revision March 2018, describes AWLs for fuel tank ignition prevention on Model 767 airplanes.

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 2,557 airplanes of U.S. registry. We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection and replacement Model 737 (1,440 airplanes).	Up to 6 work-hours × $85 per hour = Up to $510.	Up to $12,000	Up to $12,510	Up to $18,014,400.
Inspection and replacement Model 757 (675 airplanes).	Up to 9 work-hours × $85 per hour = Up to $765.	Up to $18,000	Up to $18,765	Up to $12,666,375.
Inspection and replacement Model 767 (442 airplanes).	Up to 9 work-hours × $85 per hour = Up to $765.	Up to $18,000	Up to $18,765	Up to $8,294,130.

For the maintenance/inspection program revision, we have determined that this action 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 fleets, 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 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):

2018–20–13 The Boeing Company: Amendment 39–19447; Docket No. FAA–2017–0127; Product Identifier 2016–NM–161–AD.

(a) Effective Date

This AD is effective November 15, 2018.

(b) Affected ADs

This AD affects AD 2015–21–09, Amendment 39–18302 (80 FR 65121, October 26, 2015) (''AD 2015–21–09''); AD 2015–19–04, Amendment 39–18267, (80 FR 55505, September 16, 2015) (''AD 2015–19–04''); and AD 2015–21–10, Amendment 39–18303 (80 FR 65130, October 26, 2015) (''AD 2015–21–10'').

(c) Applicability

This AD applies to all The Boeing Company airplanes, certificated in any category, identified in paragraphs (c)(1), (c)(2), and (c)(3) of this AD.

(1) Model 737 airplanes, excluding Model 737–100, –200, –200C, –300, –400, and –500 series airplanes.

(2) Model 757–200, –200PF, –200CB, and –300 series airplanes.

(3) Model 767–200, –300, –300F, and –400ER series airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 28; Fuel.

(e) Unsafe Condition

This AD was prompted by reports of latently failed motor-operated valve (MOV) actuators of the fuel shutoff valves. We are issuing this AD to prevent a latent failure of the actuator for the engine or auxiliary power unit (APU) fuel shutoff valves, which could result in the inability to shut off fuel to the engine or the APU, and, in case of certain engine or APU fires, could result in structural failure.

(f) Compliance

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

(g) Inspection To Determine Part Number (P/N)

(1) For Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes: Within 8 years after the effective date of this AD, do an inspection to determine the part numbers of the MOV actuators of the fuel shutoff valves for the left and right engines, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 737–28–1314, dated November 17, 2014. A review of airplane maintenance records is acceptable in lieu of this inspection if the part number of the MOV actuator at each location can be conclusively determined from that review.

(2) For airplanes identified in paragraphs (c)(2) and (c)(3) of this AD: Within 8 years after the effective date of this AD, do an inspection to determine the part numbers of the MOV actuators of the fuel shutoff valves for the left and right engines, and of the APU fuel shutoff valve, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 757–28–0138, Revision 1, dated June 19, 2017 (''SB 757–28–0138 R1''); or Boeing Service Bulletin 767–28–0115, Revision 1, dated June 2, 2016 (''SB 767–28–0115 R1''); as applicable. A review of airplane maintenance records is acceptable in lieu of this inspection if the part number of the MOV actuator at each location can be conclusively determined from that review.

(h) Replacement

(1) For Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes on which any MOV actuator having P/N MA20A2027 or P/N MA30A1001 (Boeing P/N S343T003–56 or Boeing P/N S343T003–66, respectively), is found during the inspection required by paragraph (g)(1) of this AD: Within 8 years after the effective date of this AD, replace each affected MOV actuator with an MOV actuator having P/N MA30A1017 (Boeing P/N S343T003–76), in accordance with the Accomplishment Instructions of Boeing Service Bulletin 737–28–1314, dated November 17, 2014. Where Boeing Service Bulletin 737–28–1314, dated November 17, 2014, specifies the installation of a new MOV actuator, this AD allows the installation of a new or serviceable MOV actuator. While not required by this AD, the Accomplishment Instructions specified in Boeing Service Bulletin 737–28–1314, dated November 17, 2014, for replacing MOV actuators having Boeing P/N S343T003–66 or Boeing P/N S343T003–56 may be used for replacing MOV actuators having P/N MA20A1001–1 (Boeing P/N S343T003–39).

(2) For airplanes identified in paragraph (c)(2) of this AD on which any MOV actuator having P/N MA20A2027 or P/N MA30A1001 (Boeing P/N S343T003–56 or Boeing P/N S343T003–66, respectively) is found during the inspection required by paragraph (g)(2) of this AD: Within 8 years after the effective date of this AD, replace each affected MOV actuator with an MOV actuator having P/N MA30A1017 (Boeing P/N S343T003–76), P/N AV–31–1 (Boeing P/N S343T003–111), or P/N MA11A1265–1 (Boeing P/N S343T003–41), in accordance with the Accomplishment Instructions of SB 757–28–0138 R1. Where SB 757–28–0138 R1 specifies the installation of a new MOV actuator, this AD allows the installation of a new or serviceable MOV actuator. While not required by this AD, the Accomplishment Instructions specified in SB 757–28–0138 R1 for replacing MOV actuators having Boeing P/N S343T003–66 or Boeing P/N S343T003–56 may be used for replacing MOV actuators having P/N MA20A1001–1 (Boeing P/N S343T003–39).

(3) For airplanes identified in paragraph (c)(3) of this AD on which any MOV actuator having P/N MA20A2027 (Boeing P/N S343T003–56) or P/N MA30A1001 (Boeing P/N S343T003–66) is found during the inspection required by paragraph (g)(2) of this AD: Within 8 years after the effective date of this AD, replace each affected MOV actuator with an MOV actuator having P/N MA30A1017 (Boeing P/N S343T003–76), P/N AV–31–1 (Boeing P/N S343T003–111), P/N MA11A1265 (Boeing P/N S343T003–14), or P/N MA11A1265–1 (Boeing P/N S343T003–41), in accordance with the Accomplishment Instructions of SB 767–28–0115 R1. Where SB 767–28–0115 R1 specifies the installation of a new MOV actuator, this AD allows the installation of a new or serviceable MOV actuator. While not required by this AD, the Accomplishment Instructions specified in SB 767–28–0115 R1, for replacing MOV actuators having Boeing P/N S343T003–66 or Boeing P/N S343T003–56 may be used for replacing MOV actuators having P/N MA20A1001–1 (Boeing P/N S343T003–39).

(i) Maintenance or Inspection Program Revision

(1) For Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes with an original certificate of airworthiness or original export certificate of airworthiness issued on or before the effective date of this AD: Prior to or concurrently with the actions required by paragraph (h)(1) of this AD or within 30 days after the effective date of this AD, whichever is later, revise the maintenance or inspection program, as applicable, to add the airworthiness limitations (AWLs) specified in paragraphs (i)(1)(i), (i)(1)(ii), and (i)(1)(iii) of this AD. The initial compliance time for accomplishing the actions required by AWL No. 28–AWL–24 is within 6 years since the most recent inspection was performed in accordance with AWL No. 28–AWL–24, or within 6 years since the actions specified in Boeing Alert Service Bulletin 737–28A1207 were accomplished, whichever is later.

(i) AWL No. 28–AWL–21, Motor Operated Valve (MOV) Actuator—Lightning and Fault Current Protection Electrical Bond, as specified in Boeing 737–600/700/700C/800/900/900ER Special Compliance Items/Airworthiness Limitations, D626A001–9–04, Revision June 2018.

(ii) AWL No. 28–AWL–22, Motor Operated Valve (MOV) Actuator—Electrical Design Feature, as specified in Boeing 737–600/700/700C/800/900/900ER Special Compliance Items/Airworthiness Limitations, D626A001–9–04, Revision June 2018.

(iii) AWL No. 28–AWL–24, Spar Valve Motor Operated Valve (MOV) Actuator—Lightning and Fault Current Protection Electrical Bond, as specified in Boeing 737–600/700/700C/800/900/900ER Special Compliance Items/Airworthiness Limitations, D626A001–9–04, Revision June 2018.

(2) For airplanes identified in paragraph (c)(2) of this AD: Prior to or concurrently with the actions required by paragraph (h)(2) of this AD, revise the maintenance or inspection program, as applicable, to add the AWLs specified in paragraphs (i)(2)(i), (i)(2)(ii), and (i)(2)(iii) of this AD. The initial compliance time for accomplishing the actions required by AWL No. 28–AWL–25 is within 6 years since the most recent inspection was performed in accordance with AWL No. 28–AWL–25, or within 6 years since the actions specified in Boeing Alert Service Bulletin 757–28A0088 were accomplished, whichever is later.

(i) AWL No. 28–AWL–23, Motor Operated Valve (MOV) Actuator—Lightning and Fault

Current Protection Electrical Bond, as specified in Boeing 757 Maintenance Planning Data (MPD) Document, Section 9, Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), D622N001–9, Revision May 2018.

(ii) AWL No. 28–AWL–24, MOV Actuator—Electrical Design Feature, as specified in Boeing 757 Maintenance Planning Data (MPD) Document, Section 9, Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), D622N001–9, Revision May 2018.

(iii) AWL No. 28–AWL–25, Motor Operated Valve (MOV) Actuator—Lightning and Fault Current Protection Electrical Bond, as specified in Boeing 757 Maintenance Planning Data (MPD) Document, Section 9, Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), D622N001–9, Revision May 2018.

(3) For airplanes identified in paragraph (c)(3) of this AD with an original certificate of airworthiness or original export certificate of airworthiness issued on or before the effective date of this AD: Prior to or concurrently with the actions required by paragraph (h)(3) of this AD, revise the maintenance or inspection program, as applicable, to add the AWLs specified in paragraphs (i)(3)(i) and (i)(3)(ii) of this AD.

(i) AWL No. 28–AWL–23, Motor Operated Valve (MOV) Actuator—Lightning and Fault Current Protection Electrical Bond, as specified in Boeing 767–200/300/300F/400 Special Compliance Items/Airworthiness Limitations, D622T001–9–04, Revision March 2018.

(ii) AWL No. 28–AWL–24, Motor Operated Valve (MOV) Actuator—Electrical Design Feature, as specified in Boeing 767–200/300/300F/400 Special Compliance Items/Airworthiness Limitations, D622T001–9–04, Revision March 2018.

(j) Maintenance or Inspection Program Revision for Parts Installation Prohibition

(1) For Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes: After accomplishing the actions required by paragraphs (g)(1), (h)(1), and (i)(1) of this AD, as applicable, on all airplanes in an operator's fleet, and within 8 years after the effective date of the AD, revise the maintenance or inspection program, as applicable, by incorporating the AWL specified in figure 1 to paragraph (j)(1) of this AD.

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Figure 1 to Paragraph (j)(1) of this AD – AWL for Model 737-600, -700, -700C, -800, -900, and -900ER series airplanes

AWL No.	Applicability	Description
28-AWL-MOVA	All	Motor Operated Valve (MOV) Actuator - Prohibition of Installation of Specific Part Numbers Installation of MOV actuator part number (P/N) MA30A1001 (Boeing P/N S343T003-66) and P/N MA20A2027 (Boeing P/N S343T003-56) is prohibited at the following positions: 1. Left engine fuel shutoff spar valve position 2. Right engine fuel shutoff spar valve position

(2) For airplanes identified in paragraph (c)(2) of this AD: After accomplishing the actions required by paragraphs (g)(2), (h)(2), and (i)(2) of this AD, as applicable, on all airplanes in an operator's fleet, and within 8 years after the effective date of the AD, revise the maintenance or inspection program, as applicable, by incorporating the AWL specified in figure 2 to paragraph (j)(2) of this AD.

Figure 2 to Paragraph (j)(2) of this AD – AWL for airplanes identified in paragraph (c)(2) of this AD

AWL No.	Applicability	Description
28-AWL-MOVA	All	Motor Operated Valve (MOV) Actuator - Prohibition of Installation of Specific Part Numbers Installation of MOV actuator part number (P/N) MA30A1001 (Boeing P/N S343T003-66) and P/N MA20A2027 (Boeing P/N S343T003-56) is prohibited at the following positions: 1. Left engine fuel shutoff spar valve position 2. Right engine fuel shutoff spar valve position 3. APU fuel shutoff valve position

(3) For airplanes identified in paragraph (c)(3) of this AD: After accomplishing the actions required by paragraphs (g)(2), (h)(3), and (i)(3) of this AD, as applicable, on all airplanes in an operator's fleet, and within 8 years after the effective date of the AD, revise the maintenance or inspection program, as applicable, by incorporating the AWL specified in figure 3 to paragraph (j)(3) of this AD.

Figure 3 to Paragraph (j)(3) of this AD – AWL for airplanes identified in paragraph (c)(3) of this AD

AWL No.	Applicability	Description
28-AWL-MOVA	All	Motor Operated Valve (MOV) Actuator - Prohibition of Installation of Specific Part Numbers Installation of MOV actuator part number (P/N) MA30A1001 (Boeing P/N S343T003-66) and P/N MA20A2027 (Boeing P/N S343T003-56) is prohibited at the following positions: 1. Left engine fuel shutoff spar valve position 2. Right engine fuel shutoff spar valve position 3. APU fuel shutoff valve position

(4) For airplanes identified in paragraph (c)(1) of this AD, excluding Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes: Within 30 days since the date of issuance of the original standard airworthiness certificate or the date of issuance of the original export certificate of airworthiness, or within 30 days after the effective date of this AD, whichever is later, revise the maintenance or inspection program, as applicable, by incorporating the AWL specified in figure 4 to paragraph (j)(4) of this AD.

Figure 4 to Paragraph (j)(4) of this AD –
AWL for airplanes identified in paragraph (c)(1) of this AD, excluding Model 737-600, -700, -700C, -800, -900, and -900ER series airplanes

AWL No.	Applicability	Description
28-AWL-MOVA	All	Motor Operated Valve (MOV) Actuator – Prohibition of Installation of Specific Part Numbers Concern: Installation of the following MOV actuator part numbers (P/N) is not part of the airplane type design: P/N MA30A1001 (Boeing P/N S343T003-66), P/N MA20A2027 (Boeing P/N S343T003-56), P/N MA20A1001-1 (Boeing P/N S343T003-39). However, there is a potential for those part numbers to be installed on the airplane using provisions provided in FAA Advisory Circular 120-77 or other means due to their continued availability and use on other Model 737 airplanes. Such an alteration will create unsafe conditions. 1. Installation of MOV actuator P/N MA20A1001-1 (Boeing P/N S343T003-39) is prohibited at any location. 2. Installation of MOV actuator part number (P/N) MA30A1001 (Boeing P/N S343T003-66) and P/N MA20A2027 (Boeing P/N S343T003-56) is prohibited at the following positions: a. Left engine fuel shutoff spar valve position b. Right engine fuel shutoff spar valve position

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(k) No Alternative Actions, Intervals, and Critical Design Configuration Control Limitations (CDCCLs)

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

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

(l) Parts Installation Prohibition

(1) For Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes: As of the effective date of this AD, no person may replace an MOV actuator having P/N MA30A1017 (Boeing P/N S343T003–76) with an MOV actuator having P/N MA20A2027 or P/N MA30A1001 (Boeing P/N S343T003–56 or Boeing P/N S343T003–66, respectively) for the left engine and right engine fuel shutoff valves.

(2) For airplanes identified in paragraph (c)(2) of this AD: As of the effective date of this AD, no person may replace an MOV actuator having P/N AV–31–1 (Boeing P/N S343T003–111), P/N MA11A1265 (Boeing P/N S343T003–14), P/N MA11A1265–1 (Boeing P/N S343T003–41), or P/N MA30A1017 (Boeing P/N S343T003–76) with an MOV actuator having P/N MA30A1001 (Boeing P/N S343T003–66) or P/N MA20A2027 (Boeing P/N S343T003–56) for the left engine and right engine fuel shutoff valves and the APU fuel shutoff valve.

(3) For airplanes identified in paragraph (c)(3) of this AD: As of the effective date of this AD, no person may replace an MOV actuator having P/N AV–31–1 (Boeing P/N S343T003–111), P/N MA11A1265 (Boeing P/N S343T003–14), P/N MA11A1265–1 (Boeing P/N S343T003–41), or P/N MA30A1017 (Boeing P/N S343T003–76) with an MOV actuator having P/N MA30A1001 (Boeing P/N S343T003–66) or P/N MA20A2027 (Boeing P/N S343T003–56) for the left engine and right engine fuel shutoff valves and the APU fuel shutoff valve.

(4) For airplanes identified in paragraph (c)(1) of this AD, excluding Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes: As of the effective date of this AD, no person may install an MOV actuator having P/N MA20A1001–1 (Boeing P/N S343T003–39) or replace an MOV actuator with an MOV actuator having P/N MA20A2027 or P/N MA30A1001 (Boeing P/N S343T003–56 or Boeing P/N S343T003–66, respectively) for the left engine and right engine fuel shutoff valves.

(m) Terminating Action

(1) For Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes: Accomplishing the actions required by paragraph (j)(l) of this AD terminates the requirements of paragraph (l)(1) of this AD and all requirements of AD 2015–21–10.

(2) For airplanes identified in paragraph (c)(2) of this AD: Accomplishing the action required by paragraph (j)(2) of this AD terminates the requirements of paragraph (l)(2) of this AD and all requirements of AD 2015–19–04.

(3) For airplanes identified in paragraph (c)(3) of this AD: Accomplishing the action required by paragraph (j)(3) of this AD terminates the requirements of paragraph (l)(3) of this AD and all requirements of AD 2015–21–09.

(4) For airplanes identified in paragraph (c)(1) of this AD, excluding Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes: Accomplishing the action required by paragraph (j)(4) of this AD terminates the requirements of paragraph (l)(4) of this AD.

(n) Credit for Previous Actions

(1) This paragraph provides credit for the actions specified in paragraph (g)(2) or (h)(2) of this AD, as applicable, if those actions were performed before the effective date of this AD using Boeing Special Attention Service Bulletin 757–28–0138, dated May 18, 2016.

(2) This paragraph provides credit for the actions specified in paragraph (g)(2) or (h)(3) of this AD, as applicable, if those actions were performed before the effective date of this AD using Boeing Service Bulletin 767–28–0115, dated September 10, 2015.

(3) For Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes with an original certificate of airworthiness or original export certificate of airworthiness issued on or before the effective date of this AD, this paragraph provides credit for the actions specified in paragraph (i)(1) of this AD if those actions were performed before the effective date of this AD using Boeing 737–600/700/700C/800/900/900ER Special Compliance Items/Airworthiness Limitations, D626A001–9–04, Revision July 2016, Revision September 2016, Revision January 2017, Revision April 2018, or Revision May 2018; or Boeing 737–600/700/700C/800/900/900ER Maintenance Planning Data (MPD) Document, Section 9, Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), D626A001–CMR, Revision October 2014, Revision November 2014, Revision January 2015, or Revision April 2016.

(4) For airplanes identified in paragraph (c)(2) of this AD, this paragraph provides credit for the actions specified in paragraph (i)(2) of this AD if those actions were performed before the effective date of this AD using Boeing 757 Maintenance Planning Data (MPD) Document, Section 9, Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), D622N001–9, Revision January 2016, Revision July 2016, or Revision February 2017.

(5) For airplanes identified in paragraph (c)(3) of this AD with an original certificate of airworthiness or original export certificate of airworthiness issued on or before the effective date of this AD, this paragraph provides credit for the actions specified in paragraph (i)(3) of this AD if those actions were performed before the effective date of this AD using Boeing 767 Special Compliance Items/Airworthiness Limitations, D622T001–9–04, Revision July 2015, Revision March 2016, Revision May 2016, Revision May 2016 R1, or Revision June 2016; or Boeing 767–200/300/300F/400 Special Compliance Items/Airworthiness Limitations, D622T001–9–04, Revision January 2018.

(6) For airplanes identified in paragraph (c)(3) of this AD with an original certificate of airworthiness or original export certificate of airworthiness issued on or before the effective date of this AD, this paragraph provides credit for the actions specified in paragraph (i)(3)(ii) of this AD if those actions were performed before the effective date of this AD using Boeing 767 Special Compliance Items/Airworthiness Limitations, D622T001–9–04, Revision October 2014.

(o) Alternative Methods of Compliance (AMOCs)

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

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

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

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

(i) The steps labeled as RC, including substeps under an RC step and any figures identified in an RC step, must be done to comply with the AD. If a step or substep is labeled ''RC Exempt,'' then the RC requirement is removed from that step or substep. An AMOC is required for any deviations to RC steps, including substeps and identified figures.

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

(p) Related Information

(1) For more information about this AD, contact Tak Kobayashi, Aerospace Engineer, Propulsion Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3553; email: *Takahisa.Kobayashi@faa.gov.*

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

(q) Material Incorporated by Reference

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

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

(i) Boeing 737–600/700/700C/800/900/900ER Special Compliance Items/Airworthiness Limitations, D626A001–9–04, Revision June 2018.

(ii) Boeing 757 Maintenance Planning Data (MPD) Document, Section 9, Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), D622N001–9, Revision May 2018.

(iii) Boeing 767–200/300/300F/400ER Special Compliance Items/Airworthiness Limitations, D622T001–9–04, Revision March 2018.

(iv) Boeing Service Bulletin 737–28–1314, dated November 17, 2014.

(v) Boeing Service Bulletin 767–28–0115, Revision 1, dated June 2, 2016.

(vi) Boeing Special Attention Service Bulletin 757–28–0138, Revision 1, dated June 19, 2017.

(3) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone: 562–797–1717; internet: *https://www.myboeingfleet.com.*

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

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call

202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

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

John P. Piccola,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. R1–2018–21460 Filed 10–16–18; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 866

[Docket No. FDA–2018–N–3596]

Medical Devices; Immunology and Microbiology Devices; Classification of the Herpes Virus Nucleic Acid-Based Cutaneous and Mucocutaneous Lesion Panel

AGENCY: Food and Drug Administration, HHS.

ACTION: Final order.

SUMMARY: The Food and Drug Administration (FDA or we) is classifying the herpes virus nucleic acid-based cutaneous and mucocutaneous lesion panel into class II (special controls). The special controls that apply to the device type are identified in this order and will be part of the codified language for the herpes virus nucleic acid-based cutaneous and mucocutaneous lesion panel's classification. We are taking this action because we have determined that classifying the device into class II (special controls) will provide a reasonable assurance of safety and effectiveness of the device. We believe this action will also enhance patients' access to beneficial innovative devices, in part by reducing regulatory burdens.

DATES: This order is effective October 17, 2018. The classification was applicable on May 13, 2014.

FOR FURTHER INFORMATION CONTACT: Scott McFarland, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 4676, Silver Spring, MD, 20993–0002, 301–796–6217, *scott.mcfarland@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Upon request, FDA has classified the herpes virus nucleic acid-based cutaneous and mucocutaneous lesion panel as class II (special controls), which we have determined will provide a reasonable assurance of safety and effectiveness. In addition, we believe this action will enhance patients' access to beneficial innovation, in part by reducing regulatory burdens by placing the device into a lower device class than the automatic class III assignment.

The automatic assignment of class III occurs by operation of law and without any action by FDA, regardless of the level of risk posed by the new device. Any device that was not in commercial distribution before May 28, 1976, is automatically classified as, and remains within, class III and requires premarket approval unless and until FDA takes an action to classify or reclassify the device (see 21 U.S.C. 360c(f)(1)). We refer to these devices as ''postamendments devices'' because they were not in commercial distribution prior to the date of enactment of the Medical Device Amendments of 1976, which amended the Federal Food, Drug, and Cosmetic Act (FD&C Act).

FDA may take a variety of actions in appropriate circumstances to classify or reclassify a device into class I or II. We may issue an order finding a new device to be substantially equivalent under section 513(i) of the FD&C Act (21 U.S.C. 360c(i) to a predicate device that does not require premarket approval. We determine whether a new device is substantially equivalent to a predicate by means of the procedures for premarket notification under section 510(k) of the FD&C Act (21 U.S.C. 360(k)) and part 807 (21 CFR part 807).

FDA may also classify a device through ''De Novo'' classification, a common name for the process authorized under section 513(f)(2) of the FD&C Act. Section 207 of the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105–115) established the first procedure for De Novo classification. Section 607 of the Food and Drug Administration Safety and Innovation Act (Pub. L. 112–144) modified the De Novo application process by adding a second procedure. A device sponsor may utilize either procedure for De Novo classification.

Under the first procedure, the person submits a 510(k) for a device that has not previously been classified. After receiving an order from FDA classifying the device into class III under section 513(f)(1) of the FD&C Act, the person then requests a classification under section 513(f)(2).

Under the second procedure, rather than first submitting a 510(k) and then a request for classification, if the person determines that there is no legally marketed device upon which to base a determination of substantial equivalence, that person requests a classification under section 513(f)(2) of the FD&C Act.

Under either procedure for De Novo classification, FDA is required to classify the device by written order within 120 days. The classification will be according to the criteria under section 513(a)(1) of the FD&C Act. Although the device was automatically placed within class III, the De Novo classification is considered to be the initial classification of the device.

We believe this De Novo classification will enhance patients' access to beneficial innovation, in part by reducing regulatory burdens. When FDA classifies a device into class I or II via the De Novo process, the device can serve as a predicate for future devices of that type, including for 510(k)s (see 21 U.S.C. 360c(f)(2)(B)(i)). As a result, other device sponsors do not have to submit a De Novo request or premarket approval application (PMA) to market a substantially equivalent device (see 21 U.S.C. 360c(i), defining ''substantial equivalence''). Instead, sponsors can use the less-burdensome 510(k) process, when necessary, to market their device.

II. De Novo Classification

For this device, FDA issued an order on February 7, 2014, finding the Lyra™ Direct HSV 1 + 2/VZV Assay not substantially equivalent to a predicate not subject to PMA. Thus, the device remained in class III in accordance with section 513(f)(1) of the FD&C Act when we issued the order.

On February 21, 2014, Quidel Corporation submitted a request for De Novo classification of the Lyra™ Direct HSV 1 + 2/VZV Assay. FDA reviewed the request in order to classify the device under the criteria for classification set forth in section 513(a)(1) of the FD&C Act.

We classify devices into class II if general controls by themselves are insufficient to provide reasonable assurance of safety and effectiveness, but there is sufficient information to establish special controls that, in combination with the general controls, provide reasonable assurance of the safety and effectiveness of the device for its intended use (see 21 U.S.C. 360c(a)(1)(B)). After review of the information submitted in the request, we determined that the device can be classified into class II with the establishment of special controls. FDA has determined that these special controls, in addition to general controls, will provide reasonable assurance of the safety and effectiveness of the device.

Therefore, on May 13, 2014, FDA issued an order to the requestor classifying the device into class II. FDA

is codifying the classification of the device by adding 21 CFR 866.3309. We have named the generic type of device herpes virus nucleic acid-based cutaneous and mucocutaneous lesion panel, and it is identified as a qualitative in vitro diagnostic device intended for the simultaneous detection and differentiation of different herpes viruses in cutaneous and mucocutaneous lesion samples from symptomatic patients suspected of Herpetic infections. Negative results do not preclude infection and should not be used as the sole basis for treatment or other patient management decisions. The assay is not intended for use in cerebrospinal fluid samples.

FDA has identified the following risks to health associated specifically with this type of device and the measures required to mitigate these risks in table 1.

TABLE 1—HERPES VIRUS NUCLEIC ACID-BASED CUTANEOUS AND MUCOCUTANEOUS LESION PANEL RISKS AND MITIGATION MEASURES

Identified risks	Mitigation measures
Risk of false results	Special controls (1) (21 CFR 866.3309(b)(1)), (2) (21 CFR 866.3309(b)(2)), and (3) (21 CFR 866.3309(b)(3)).
Failure to correctly interpret test results	Special controls (4) (21 CFR 866.3309(b)(4)) and (5) (21 CFR 866.3309(b)(5)).
Failure to correctly operate the instrument	Special controls (6) (21 CFR 866.3309(b)(6)) and (7) (21 CFR 866.3309(b)(7)).

FDA has determined that special controls, in combination with the general controls, address these risks to health and provide reasonable assurance of safety and effectiveness. For a device to fall within this classification, and thus avoid automatic classification in class III, it would have to comply with the special controls named in this final order. The necessary special controls appear in the regulation codified by this order. This device is subject to premarket notification requirements under section 510(k) of the FD&C Act.

III. Analysis of Environmental Impact

We have determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

IV. Paperwork Reduction Act of 1995

This final order establishes special controls that refer to previously approved collections of information found in other FDA regulations and guidance. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in the guidance document ''De Novo Classification Process (Evaluation of Automatic Class III Designation)'' have been approved under OMB control number 0910–0844; the collections of information in 21 CFR part 814, subparts A through E, regarding premarket approval, have been approved under OMB control number 0910–0231; the collections of information in part 807, subpart E, regarding premarket notification submissions, have been approved under OMB control number 0910–0120; the collections of information in 21 CFR part 820, regarding quality system regulations, have been approved under OMB control number 0910–0073; and the collections of information in 21 CFR parts 801 and 809, regarding labeling, have been approved under OMB control number 0910–0485.

List of Subjects in 21 CFR Part 866

Biologics; Laboratories; Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 866 is amended as follows:

PART 866—IMMUNOLOGY AND MICROBIOLOGY DEVICES

■ 1. The authority citation for 21 CFR part 866 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 360*l,* 371.

■ 2. Add § 866.3309 to subpart D to read as follows:

§ 866.3309 Herpes virus nucleic acid-based cutaneous and mucocutaneous lesion panel.

(a) *Identification.* A herpes virus nucleic acid-based cutaneous and mucocutaneous lesion panel is a qualitative in vitro diagnostic device intended for the simultaneous detection and differentiation of different herpes viruses in cutaneous and mucocutaneous lesion samples from symptomatic patients suspected of Herpetic infections. Negative results do not preclude infection and should not be used as the sole basis for treatment or other patient management decisions. The assay is not intended for use in cerebrospinal fluid samples.

(b) *Classification.* Class II (special controls). The special controls for this device are:

(1) Premarket notification submissions must include detailed documentation for the device description, including the device components, ancillary reagents required but not provided, and a detailed explanation of the methodology including primer design and selection.

(2) Premarket notification submissions must include detailed documentation from the following analytical and clinical performance studies: Analytical sensitivity (Limit of Detection), reactivity, inclusivity, precision, reproducibility, interference, cross reactivity, carry-over, and cross contamination.

(3) Premarket notification submissions must include detailed documentation of a clinical study using lesion samples in which Herpes Simplex Virus 1, Herpes Simplex Virus 2, or Varicella Zoster Virus DNA detection was requested. The study must compare the device performance to an appropriate well established reference method.

(4) A detailed explanation of the interpretation of results and acceptance criteria must be included in the device's 21 CFR 809.10(b)(9) compliant labeling.

(5) The device labeling must include a limitation statement that reads: ''The device is not intended for use with cerebrospinal fluid or to aid in the diagnosis of HSV or VZV infections of the central nervous system (CNS).''

(6) Premarket notification submissions must include quality assurance protocols and a detailed documentation for device software, including, but not limited to, standalone

software applications and hardware-based devices that incorporate software.

(7) The risk management activities performed as part of the manufacturer's 21 CFR 820.30 design controls must document an appropriate end user device training program that will be offered as part of efforts to mitigate the risk of failure to correctly operate the instrument.

Dated: October 12, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–22694 Filed 10–16–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 882

[Docket No. FDA–2018–N–3635]

Medical Devices; Neurological Devices; Classification of the External Upper Limb Tremor Stimulator

AGENCY: Food and Drug Administration, HHS.

ACTION: Final order.

SUMMARY: The Food and Drug Administration (FDA or we) is classifying the external upper limb tremor stimulator into class II (special controls). The special controls that apply to the device type are identified in this order and will be part of the codified language for the external upper limb tremor stimulator's classification. We are taking this action because we have determined that classifying the device into class II (special controls) will provide a reasonable assurance of safety and effectiveness of the device. We believe this action will also enhance patients' access to beneficial innovative devices, in part by reducing regulatory burdens.

DATES: This order is effective October 17, 2018. The classification was applicable on April 26, 2018.

FOR FURTHER INFORMATION CONTACT: Kristen Bowsher, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 2646, Silver Spring, MD 20993–0002, 301–796–6448, *Kristen.Bowsher@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Upon request, FDA has classified the external upper limb tremor stimulator as class II (special controls), which we have determined will provide a reasonable assurance of safety and effectiveness. In addition, we believe this action will enhance patients' access to beneficial innovation, in part by reducing regulatory burdens by placing the device into a lower device class than the automatic class III assignment.

The automatic assignment of class III occurs by operation of law and without any action by FDA, regardless of the level of risk posed by the new device. Any device that was not in commercial distribution before May 28, 1976, is automatically classified as, and remains within, class III and requires premarket approval unless and until FDA takes an action to classify or reclassify the device (see 21 U.S.C. 360c(f)(1)). We refer to these devices as ''postamendments devices'' because they were not in commercial distribution prior to the date of enactment of the Medical Device Amendments of 1976, which amended the Federal Food, Drug, and Cosmetic Act (FD&C Act).

FDA may take a variety of actions in appropriate circumstances to classify or reclassify a device into class I or II. We may issue an order finding a new device to be substantially equivalent under section 513(i) of the FD&C Act (21 U.S.C. 360c(i)) to a predicate device that does not require premarket approval. We determine whether a new device is substantially equivalent to a predicate by means of the procedures for premarket notification under section 510(k) of the FD&C Act (21 U.S.C. 360(k)) and part 807 (21 CFR part 807).

FDA may also classify a device through ''De Novo'' classification, a common name for the process authorized under section 513(f)(2) of the FD&C Act. Section 207 of the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105–115) established the first procedure for De Novo classification. Section 607 of the Food and Drug Administration Safety and Innovation Act (Pub. L. 112–144) modified the De Novo application process by adding a second procedure. A device sponsor may utilize either procedure for De Novo classification.

Under the first procedure, the person submits a 510(k) for a device that has not previously been classified. After receiving an order from FDA classifying the device into class III under section 513(f)(1) of the FD&C Act, the person then requests a classification under section 513(f)(2).

Under the second procedure, rather than first submitting a 510(k) and then a request for classification, if the person determines that there is no legally marketed device upon which to base a determination of substantial equivalence, that person requests a classification under section 513(f)(2) of the FD&C Act.

Under either procedure for De Novo classification, FDA is required to classify the device by written order within 120 days. The classification will be according to the criteria under section 513(a)(1) of the FD&C Act. Although the device was automatically placed within class III, the De Novo classification is considered to be the initial classification of the device.

We believe this De Novo classification will enhance patients' access to beneficial innovation, in part by reducing regulatory burdens. When FDA classifies a device into class I or II via the De Novo process, the device can serve as a predicate for future devices of that type, including for 510(k)s (see 21 U.S.C. 360c(f)(2)(B)(i)). As a result, other device sponsors do not have to submit a De Novo request or premarket approval application to market a substantially equivalent device (see 21 U.S.C. 360c(i), defining ''substantial equivalence''). Instead, sponsors can use the less-burdensome 510(k) process, when necessary, to market their device.

II. De Novo Classification

On May 17, 2017, Cala Health, Inc. submitted a request for De Novo classification of the Cala ONE. FDA reviewed the request in order to classify the device under the criteria for classification set forth in section 513(a)(1) of the FD&C Act.

We classify devices into class II if general controls by themselves are insufficient to provide reasonable assurance of safety and effectiveness, but there is sufficient information to establish special controls that, in combination with the general controls, provide reasonable assurance of the safety and effectiveness of the device for its intended use (see 21 U.S.C. 360c(a)(1)(B)). After review of the information submitted in the request, we determined that the device can be classified into class II with the establishment of special controls. FDA has determined that these special controls, in addition to the general controls, will provide reasonable assurance of the safety and effectiveness of the device.

Therefore, on April 26, 2018, FDA issued an order to the requester classifying the device into class II. FDA is codifying the classification of the device by adding 21 CFR 882.5897. We have named the generic type of device external upper limb tremor stimulator, and it is identified as a prescription device that is placed externally on the upper limb and designed to aid in

tremor symptom relief of the upper limb.

FDA has identified the following risks to health associated specifically with this type of device and the measures required to mitigate these risks in table 1.

TABLE 1—EXTERNAL UPPER LIMB TREMOR STIMULATOR RISKS AND MITIGATION MEASURES

Identified risks	Mitigation measures
Tissue damage due to over-stimulation.	Non-clinical performance testing; Software verification, validation, and hazard analysis; Electrical safety testing; Shelf life testing; and Labeling.
Adverse tissue reaction	Biocompatibility evaluation and Labeling.
Electrical shock or burn	Electrical, thermal, and mechanical safety testing; Software verification, validation, and hazard analysis; and Labeling.
Interference with other devices	Electromagnetic compatibility (EMC) testing; Software verification, validation, and hazard analysis; and Labeling.

FDA has determined that special controls, in combination with the general controls, address these risks to health and provide reasonable assurance of safety and effectiveness. For a device to fall within this classification, and thus avoid automatic classification in class III, it would have to comply with the special controls named in this final order. The necessary special controls appear in the regulation codified by this order. This device is subject to premarket notification requirements under section 510(k) of the FD&C Act.

At the time of classification, external upper limb tremor stimulators are for prescription use only. Prescription devices are exempt from the requirement for adequate directions for use for the layperson under section 502(f)(1) of the FD&C Act (21 U.S.C. 352(f)(1)) and 21 CFR 801.5, as long as the conditions of 21 CFR 801.109 are met (referring to 21 U.S.C. 352(f)(1)).

III. Analysis of Environmental Impact

We have determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

IV. Paperwork Reduction Act of 1995

This final order establishes special controls that refer to previously approved collections of information found in other FDA regulations and guidance. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in the guidance document ''De Novo Classification Process (Evaluation of Automatic Class III Designation)'' have been approved under OMB control number 0910–0844; the collections of information in 21 CFR part 814, subparts A through E, regarding premarket approval, have been approved under OMB control number 0910–0231; the collections of information in 21 CFR part 820, regarding quality system regulations, have been approved under OMB control number 0910–0073; the collections of information in part 807, subpart E, regarding premarket notification submissions, have been approved under OMB control number 0910–0120; and the collections of information in 21 CFR part 801, regarding labeling, have been approved under OMB control number 0910–0485.

List of Subjects in 21 CFR Part 882

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 882 is amended as follows:

PART 882—NEUROLOGICAL DEVICES

■ 1. The authority citation for part 882 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 360*l,* 371.

■ 2. Add § 882.5897 to subpart F to read as follows:

§ 882.5897 External upper limb tremor stimulator.

(a) *Identification.* An external upper limb tremor stimulator is a prescription device which is placed externally on the upper limb and designed to aid in tremor symptom relief of the upper limb.

(b) *Classification.* Class II (special controls). The special controls for this device are:

(1) Non-clinical performance testing must assess the following:

(i) Characterization of the electrical stimulation, including the following, must be performed: Waveforms, output modes, maximum output voltage, maximum output current, pulse duration, frequency, net charge per pulse, maximum phase charge at 500 ohms, maximum current density, maximum average current, and maximum average power density.

(ii) Impedance testing, current distribution across the electrode surface area, adhesive integrity, and shelf life testing of the electrodes and gels must be conducted.

(iii) Simulated use testing of sensor performance and the associated algorithms that determine the stimulation output must be conducted.

(2) Patient-contacting components of the device must be demonstrated to be biocompatible.

(3) Performance testing must demonstrate electrical, thermal, and mechanical safety along with electromagnetic compatibility (EMC) of the device in the intended use environment.

(4) Software verification, validation, and hazard analysis must be performed.

(5) Physician and patient labeling must include:

(i) Summaries of electrical stimulation parameters;

(ii) Instructions on how to correctly use and maintain the device;

(iii) Instructions and explanations of all user-interface components;

(iv) Instructions on how to clean the device;

(v) A shelf life for the electrodes and gel; and

(vi) Reuse information.

Dated: October 12, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–22695 Filed 10–16–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 310

[Docket ID: DoD–2018–OS–0075]

Privacy Act of 1974; Implementation

AGENCY: Office of the Secretary of Defense, DoD.

ACTION: Interim final rule.

SUMMARY: In accordance with the Privacy Act of 1974, the Office of the Secretary of Defense is exempting records maintained in a new system of records, ''Personnel Vetting Records System,'' DUSDI 02–DoD, from certain requirements of the Act.

DATES: This interim final rule is effective October 17, 2018. Comments must be received on or before November 16, 2018.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal Rulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: Department of Defense, Office of the Chief Management Officer, Directorate for Oversight and Compliance, 4800 Mark Center Drive, ATTN: Box 24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Cindy Allard, Chief, Defense Privacy, Civil Liberties, and Transparency Division, 703–571–0070.

SUPPLEMENTARY INFORMATION:

Background

This Privacy Act system contains records that support DoD in conducting end-to-end personnel security, suitability, fitness, and credentialing processes, including submission of applications and questionnaires, investigations, adjudications, and continuous vetting activities. DoD developed the information technology capabilities that contribute to the Personnel Vetting Records System to support background investigation processes pursuant to Executive Order 13467, as amended, and Section 925 of the National Defense Authorization Act (NDAA) for FY2018.

The Personnel Vetting Records System integrates information technology capabilities to execute the conduct of background investigations actions including: Investigations and determinations of eligibility for access to classified national security information, suitability for federal employment, fitness of contractor personnel to perform work for or on behalf of the U.S. Government, and HSPD–12 determinations for Personal Identity Verification (PIV) to gain logical or physical access to government facilities and systems. The Personnel Vetting Records System also supports submission of adverse personnel information, verification of investigation and adjudicative history and status, continuous evaluation, and insider threat detection, prevention, and mitigation activities. Records in the information systems covered by this system notice may also be used as a management tool for statistical analyses; tracking, reporting, and evaluating program effectiveness; and conducting research related to personnel vetting.

Pursuant to subsections (k)(1)–(3) and (5)–(7) of the Privacy Act, these specific exemptions from subsections (c)(3), (d)(1)–(4), and (e)(1) of the Act are necessary to allow the Department to ensure that the personnel vetting process functions in a way that fosters efficient, fair, and effective identification, investigation, and adjudication of information for end-to-end adjudication of the whole person. If a process within the personnel vetting program indicates adverse action is anticipated, due process is provided to the subject of the record prior to a final decision by the Department.

Good Cause for Adoption Without Prior Notice and Comment

The Department is publishing this rule as an interim final rule in order to implement the program in a timely manner consistent with new mandates in the National Defense Authorization Act for Fiscal Year 2018. In accordance with Public Law 115–91, responsibility for the vetting of DoD personnel will begin to transfer from the Office of Personnel Management (OPM) to the Department of Defense effective October 1, 2018. OPM's conduct of background of investigation necessitated exemptions for its system of records covering such investigations. Similarly, DoD's full, immediate use of the records system and associated exemptions to carry out the missions transferred from OPM are essential to mitigate the backlog of personnel investigations which is preventing tens of thousands of U.S. citizens from starting new employment and delaying the identification of issues of concern among the existing cleared population which places classified information and other personnel at risk. Accordingly, it is currently impractical, unnecessary, and contrary to the public interest to first publish this exemption rule for notice and comment before its implementation.

Regulatory Procedures

Executive Order 12866, ''Regulatory Planning and Review'' and Executive Order 13563, ''Improving Regulation and Regulatory Review''

It has been determined that this rule is not a significant rule. This rule does not (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 these Executive orders.

Executive Order 13771, ''Reducing Regulation and Controlling Regulatory Costs''

This rule is not significant under Executive Order 12866, ''Regulatory Planning and Review.'' Therefore, the requirements of Executive Order 13771 do not apply.

Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. Chapter 6)

It has been certified that this rule does not have a significant economic impact on a substantial number of small entities because it is concerned only with the administration of Privacy Act systems of records within DoD. A Regulatory Flexibility Analysis is not required.

Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 35)

It has been determined that this rule does not impose additional information collection requirements on the public under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Section 202, Public Law 104–4, ''*Unfunded Mandates Reform Act*''

It has been determined that this rule does not involve a Federal mandate 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 and that it will not significantly or uniquely affect small governments.

Executive Order 13132, ''*Federalism*''

It has been determined that this rule does not have federalism implications. This rule does not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

List of Subjects in 32 CFR Part 310

Privacy.

Accordingly, 32 CFR part 310 is amended as follows:

PART 310—[AMENDED]

■ 1. The authority citation for 32 CFR part 310 continues to read as follows:

Authority: 5 U.S.C. 552a.

■ 2. Amend § 310.30 by:
■ a. Revising the first sentence of paragraph (b)(1).
■ b. Redesignating paragraph (d) as paragraph (e).
■ c. Revising newly redesignated paragraph (e)(1).
■ d. Designating the undesignated paragraph following paragraph (e)(1) as paragraph (e)(1)(i).
■ e. Adding paragraph (e)(1)(ii).
■ f. Further redesignating newly designated paragraph (e)(2) as paragraph (d) and adding a heading for newly redesignated paragraph (d).
■ g. Adding a new paragraph (e)(2).
■ h. Further redesignating newly designated paragraphs (e)(3) introductory text and (e)(3)(i) through (xii) as paragraphs (e)(1)(iii) introductory text and (e)(1)(iii)(A) through (L), respectively, and further redesignating newly designated paragraph (e)(4) as paragraph (e)(1)(iv).
■ i. Adding headings for newly redesignated paragraphs (e)(1)(iii) and (iv).

The revisions and additions read as follows:

§ 310.30 DoD-wide exemptions.

* * * * *

(b) *Promises of confidentiality.* (1) Only the identity of sources that have been given an express promise of confidentiality may be protected from disclosure under this section. * * *

* * * * *

(d) *Exempt records.* * * *

(e) * * *

(1) *System identifier and name.* DUSDI 01–DoD ''Department of Defense (DoD) Insider Threat Management and Analysis Center (DITMAC) and DoD Component Insider Threat Records System.''

(i) *Exemption.* This system of records is exempted from subsections (c)(3) and (4); (d)(1), (2), (3) and (4); (e)(1), (2), (3), (4)(G)(H) and (I), (5) and (8); and (g) of the Privacy Act.

(ii) *Authority.* 5 U.S.C. 552a(j)(2) and (k)(1), (2), (3), (5), (6), and (7).

(iii) *Exemption from the particular subsections.* * * *

(iv) *Exempt records from other systems.* * * *

(2) *System identifier and name.* DUSDI 02–DoD ''Personnel Vetting Records System.''

(i) *Exemption.* This system of records is exempted from subsections 5 U.S.C. 552a(c)(3), (d)(1), (d)(2), (d)(3), (d)(4), and (e)(1) of the Privacy Act.

(ii) *Authority.* 5 U.S.C. 552a(k)(1), (k)(2), (k)(3), (k)(5), (k)(6), and (k)(7).

(iii) *Exemption from the particular subsections.* Exemption from the particular subsections is justified for the following reasons:

(A) *Subsections (c)(3), (d)(1), and (d)(2)–(1) Exemption (k)(1).* Personnel investigations and vetting records may contain information properly classified pursuant to Executive Order. Application of exemption (k)(1) for such records may be necessary because access to, amendment of, or release of the accounting of disclosures of such records could disclose classified information that could be detrimental to national security.

(*2*) *Exemption (k)(2).* Personnel investigations and vetting records may contain investigatory material compiled for law enforcement purposes other than material within the scope of 5 U.S.C. 552a(j)(2). Application of exemption (k)(2) for such records may be necessary because access to, amendment of, or release of the accounting of disclosures of such records could: Inform the record subject of an investigation of the existence, nature, or scope of an actual or potential law enforcement or counterintelligence investigation, and thereby seriously impede law enforcement or counterintelligence efforts by permitting the record subject and other persons to whom he might disclose the records to avoid criminal penalties, civil remedies, or counterintelligence measures; interfere with a civil or administrative action or investigation which may impede those actions or investigations; and result in an unwarranted invasion of the privacy of others. Amendment of such records could also impose a highly impracticable administrative burden by requiring investigations to be continuously reinvestigated.

(*3*) *Exemption (k)(3).* Personnel investigations and vetting records may contain information pertaining to providing protective services to the President of the United States or other individuals pursuant to 18 U.S.C. 3056. Application of exemption (k)(3) for such records may be necessary because access to, amendment of, or release of the accounting of disclosures of such records could compromise the safety of the individuals protected pursuant to 18 U.S.C. 3056 and compromise protective services provided to the President and other individuals. Amendment of such records could also impose a highly impracticable administrative burden by requiring investigations to be continuously reinvestigated.

(*4*) *Exemption (k)(5).* Personnel investigations and vetting records may contain investigatory material compiled solely for determining suitability, eligibility, and qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information. In some cases, such records may contain information pertaining to the identity of a source who furnished information to the Government under an express promise that the source's identity would be held in confidence (or prior to the effective date of the Privacy Act, under an implied promise). Application of exemption (k)(5) for such records may be necessary because access to, amendment of, or release of the accounting of disclosures of such records could identify these confidential sources who might not have otherwise come forward to assist the Government, could hinder the Government's ability to obtain information from future confidential sources, and result in an unwarranted invasion of the privacy of others. Amendment of such records could also impose a highly impracticable administrative burden by requiring investigations to be continuously reinvestigated.

(*5*) *Exemption (k)(6).* Personnel investigations and vetting records may contain information relating to testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service. Application of exemption (k)(6) for such records may be necessary because access to, amendment of, or release of the

accounting of disclosures of such records could compromise the objectivity and fairness of the testing or examination process. Amendment of such records could also impose a highly impracticable administrative burden by requiring investigations to be continuously reinvestigated.

(*6*) *Exemption (k)(7).* Personnel investigations and vetting records may contain evaluation material used to determine potential for promotion in the armed services. In some cases, such records may contain information pertaining to the identity of a source who furnished information to the Government under an express promise that the source's identity would be held in confidence (or prior to the effective date of the Privacy Act, under an implied promise). Application of exemption (k)(7) for such records may be necessary because access to, amendment of, or release of the accounting of disclosures of such records could identify these confidential sources who might not have otherwise come forward to assist the Government, hinder the Government's ability to obtain information from future confidential sources, and result in an unwarranted invasion of the privacy of others. Amendment of such records could also impose a highly impracticable administrative burden by requiring investigations to be continuously reinvestigated.

(B) *Subsections (d)(3) and (4).* These subsections are inapplicable to the extent an exemption is claimed from (d)(1) and (2). Moreover, applying the amendment appeal procedures toward background investigation and vetting records could impose a highly impracticable administrative burden by requiring investigations to be continuously reinvestigated.

(C) *Subsection (e)(1).* In the collection of information for authorized vetting purposes, it is not always possible to conclusively determine the relevance and necessity of particular information in the early stages of the investigation or adjudication. In some instances, it will be only after the collected information is evaluated in light of other information that its relevance and necessity for effective investigation and adjudication can be assessed. Collection of such information permits more informed decision-making by the Department when making required suitability, eligibility, fitness, and credentialing determinations. Accordingly, application of exemptions (k)(1), (k)(2), (k)(3), (k)(5), (k)(6), and (k)(7) may be necessary.

(iv) *Exempt records from other systems.* In addition, in the course of carrying out personnel vetting, including records checks for continuous vetting, exempt records from other systems of records may in turn become part of the records maintained in this system. To the extent that copies of exempt records from those other systems of records are maintained into this system, the DoD claims the same exemptions for the records from those other systems that are entered into this system, as claimed for the original primary system of which they are a part.

Dated: October 11, 2018.

Shelly E. Finke,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2018–22507 Filed 10–16–18; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2016–0257]

Drawbridge Operation Regulation; Delaware River, Pennsauken Township, NJ

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the DELAIR Memorial Railroad Bridge across the Delaware River, mile 104.6, at Pennsauken Township, NJ. This deviation will allow the bridge to be remotely operated from the Conrail South Jersey dispatch center in Mount Laurel, NJ, instead of being operated by an on-site bridge tender.

DATES: This deviation is effective without actual notice from October 17, 2018 through 7:59 a.m. on December 15, 2018. For the purposes of enforcement, actual notice will be used from 8 a.m. on October 16, 2018, until October 17, 2018.

ADDRESSES: The docket for this deviation, USCG–2016–0257 is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH''. Click on Open Docket Folder on the line associated with this deviation.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Mr. Hal R. Pitts, Fifth Coast Guard District (dpb); telephone (757) 398–6222, email *Hal.R.Pitts@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Background, Purpose and Legal Basis

On April 12, 2017, we published a notice in the **Federal Register** entitled, ''Drawbridge Operation Regulation; Delaware River, Pennsauken Township, NJ'' announcing a temporary deviation from the regulations, with request for comments (see 82 FR 17562). This temporary deviation commenced at 8 a.m. on April 24, 2017, and concluded at 7:59 a.m. on October 21, 2017. The purpose of the deviation was to test the newly installed remote operation system of the DELAIR Memorial Railroad Bridge across the Delaware River, mile 104.6, at Pennsauken Township, NJ, owned and operated by Conrail Shared Assets. The installation of the remote operation system did not change the operational schedule of the bridge.

On June 30, 2017, we published a notice of proposed rulemaking (NPRM) entitled, ''Drawbridge Operation Regulation; Delaware River, Pennsauken Township, NJ'' (see 82 FR 29800). This proposed regulation will allow the bridge to be remotely operated from the Conrail South Jersey dispatch center in Mount Laurel, NJ, instead of being operated by an on-site bridge tender. This proposed regulation will not change the operating schedule of the bridge. The original comment period closed on August 18, 2017.

During the initial test deviation performed from 8 a.m. on April 24, 2017, through 7:59 a.m. on October 21, 2017, the bridge owner identified deficiencies in the remote operation center procedures, bridge to vessel communications, and equipment redundancy. Comments concerning these deficiencies were submitted to the docket and provided to the Coast Guard and bridge owner by representatives from the Mariners' Advisory Committee for the Bay and River Delaware.

On October 18, 2017, we published a notice in the **Federal Register** entitled, ''Drawbridge Operation Regulation; Delaware River, Pennsauken Township, NJ'' announcing a second temporary deviation from the regulations, with request for comments (see 82 FR 48419). This temporary deviation commenced at 8 a.m. on October 21, 2017, and concluded at 7:59 a.m. on April 19, 2018. This notice included a request for comments and related material to reach the Coast Guard on or before January 15, 2018.

On December 6, 2017, we published a notice of proposed rulemaking; reopening of comment period; entitled ''Drawbridge Operation Regulation; Delaware River, Pennsauken Township, NJ'' in the **Federal Register** (see 82 FR

57561). This notice included a request for comments and related material to reach the Coast Guard on or before January 15, 2018.

On January 22, 2018, we published a notice of temporary deviation from regulations; reopening comment period; entitled ''Drawbridge Operation Regulation; Delaware River, Pennsauken Township, NJ'' in the **Federal Register** (see 83 FR 2909). This notice included a request for comments and related material to reach the Coast Guard on or before March 2, 2018.

On February 15, 2018, we published a notice of proposed rulemaking; reopening comment period; entitled ''Drawbridge Operation Regulation; Delaware River, Pennsauken Township, NJ'' in the **Federal Register** (see 83 FR 6821). This notice included a request for comments and related material to reach the Coast Guard on or before March 2, 2018.

The Coast Guard reviewed 26 comments posted to the docket and six reports with supporting documentation submitted by the bridge owner during the initial and second temporary deviations concerning the remote operation system of the DELAIR Memorial Railroad Bridge. Through this review, the Coast Guard found that further testing and evaluation of the remote operation system of the drawbridge was necessary before making a decision on the proposed regulation.

On April 26, 2018, we published a notice in the **Federal Register** entitled, ''Drawbridge Operation Regulation; Delaware River, Pennsauken Township, NJ'' announcing a third temporary deviation from the regulations, with request for comments (see 83 FR 18226). This temporary deviation commenced at 8 a.m. on April 19, 2018, and is scheduled to conclude at 7:59 a.m. on October 16, 2018. This notice included a request for comments and related material to reach the Coast Guard on or before August 17, 2018.

On May 4, 2018, we published a notice of proposed rulemaking; reopening comment period; entitled ''Drawbridge Operation Regulation; Delaware River, Pennsauken Township, NJ'' in the **Federal Register** (see 83 FR 19659). This notice included a request for comments and related material to reach the Coast Guard on or before August 17, 2018.

During the third temporary deviation, the following changes were implemented: (1) The on-site bridge tender was removed from the bridge, (2) qualified personnel would return and operate the bridge within 60 minutes if the remote operation system is considered in a failed condition, and (3) comments concerning the utility and value of the automated identification system (AIS) were requested.

The Coast Guard received no comments posted to the docket during the third temporary deviation; however, the Coast Guard did receive two reports with supporting documentation submitted by the bridge owner. The Coast Guard is conducting an evaluation of the proposed rulemaking and has decided to publish a temporary deviation to allow the DELAIR Memorial Railroad Bridge across the Delaware River, mile 104.6, at Pennsauken Township, NJ, to continue to be remotely operated from the Conrail South Jersey dispatch center in Mount Laurel, NJ, instead of being operated by an on-site bridge tender, to allow sufficient time for the evaluation to be completed. The operating schedule published in 33 CFR 117.716 will not change with the remote operation of the bridge.

II. Temporary Deviation From Regulations

The operating schedule is published in 33 CFR 117.716. Under this temporary deviation, the bridge will be remotely operated from the Conrail South Jersey dispatch center in Mount Laurel, NJ, instead of being operated by an on-site bridge tender.

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

Dated: October 12, 2018.

Hal R. Pitts,

Bridge Program Manager, Fifth Coast Guard District.

[FR Doc. 2018–22692 Filed 10–16–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2018–0232]

RIN 1625–AA00

Safety Zone; Blue Angels Air Show; St. Johns River, Jacksonville, FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the waters of the St. Johns River in the vicinity of Naval Air Station (NAS) Jacksonville, Florida during the Blue Angels Air Show. This rulemaking prohibits persons and vessels from entering, transiting through, remaining within, or anchoring in the safety zone unless authorized by the Captain of the Port (COTP) Jacksonville or a designated representative.

DATES: This rule is effective from 8 a.m. on October 26, 2018 until 5 p.m. on October 28, 2018.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2018–0232 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Junior Grade Emily Sysko, Chief, Waterways Management Division, U.S. Coast Guard; telephone 904–714–7616, email *Emily.T.Sysko@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

On May 18, 2018, NAS Jacksonville submitted a marine event application to the Coast Guard for the Blue Angels Air Show that will take place daily from October 26, 2018 through October 28, 2018. The air show will consist of various flight demonstrations over the St. Johns River in vicinity of NAS Jacksonville. Over the years, there have been unfortunate instances of aircraft mishaps and crashes during performances at various air shows around the world. Occasionally, these incidents result in a wide area of scattered debris in the water that can damage property or cause significant injury or death to the public observing the air shows. The Captain of the Port (COTP) Jacksonville has determined that a safety zone is necessary to protect the general public from hazards associated with aerial flight demonstrations.

On July 26, 2018, the Coast Guard published a notice of proposed rulemaking (NPRM) titled ''Safety Zone; Blue Angels Air Show; St. Johns River, Jacksonville, FL'' (83 FR 35442). There we stated why we issued the NPRM,

and invited comments on our proposed regulatory action related to this fireworks display. During the comment period that ended August 27, 2018, we received 1 comment.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port Jacksonville (COTP) has determined that potential hazards associated with the aerial flight demonstrations will be a safety concern for members of the public viewing the demonstration within, or transiting through, the safety zone. The purpose of this rule is to ensure safety of vessels and persons on the navigable waters of the St. Johns River in the vicinity of Naval Air Station (NAS) Jacksonville, Florida, before, during, and after the air show.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received 1 comment on our in support of the regulation. There are no changes in the regulatory text of this rule from the regulatory text in the NPRM.

This rule establishes a safety zone daily from 8 a.m. to 5 p.m. on October 26, 2018 through October 28, 2018, on the waters of the St. John's River in the vicinity of NAS Jacksonville, Florida. The safety zone will encompass all waters within an area approximately three quarters of a mile parallel to the shoreline, and one mile out into the St. Johns River in Jacksonville, FL. The duration of the zone is intended to ensure the safety of the public on these navigable waters during the aerial flight demonstrations. No vessel or person will be permitted to enter, transit through, remain within, or anchor in the safety zone without obtaining permission from the COTP or a designated representative. The Coast Guard will provide notice of the regulated areas by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representative.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zone. Vessel traffic will be able to safely transit around this safety zone, which would impact a small designated area of the St. Johns River for nine hours on each of the three days the air show is occurring. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone, and the rule would allow vessels to seek permission to enter the zone.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting nine hours daily that prohibits persons and vessels from entering, transiting through, remaining within, within, or anchoring in an area of approximately one square mile. Normally such actions are categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T07–0232 to read as follows:

§ 165.T07–0232 Safety Zone, Blue Angels Air Show; St. Johns River, Jacksonville, FL.

(a) *Regulated area.* The following area is a safety zone: All waters of the St. Johns River, from surface to bottom, encompassed by a line connecting the following points beginning at 30°13′41″ N; 081°39′45″ W, thence due east to, 30°13′41″ N; 081°38′35″ W, thence south to 30°14′27″ N; 081°38′35″ W, thence west to 30°14′27″ N, 081°39′45″ W, and thence along the shore line back to the beginning point. These coordinates are based on North American Datum 1983.

(b) *Definition.* The term ''designated representative'' means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Jacksonville (COTP) in the enforcement of the safety zone.

(c) *Regulations.* (1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by the Captain of the Port Jacksonville or a designated representative.

(2) Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated area may contact the Captain of the Port Jacksonville by telephone at (904) 714–7557, or a designated representative via VHF–FM radio on channel 16, to request authorization. If authorization is granted, all persons and vessels receiving such authorization must comply with the instructions of the COTP Jacksonville or a designated representative.

(3) The Coast Guard will provide notice of the regulated area through Broadcast Notice to Mariners via VHF–FM channel 16 or by on-scene designated representatives.

(d) *Enforcement period.* This rule will be enforced daily from 8 a.m. until 5 p.m. from October 26, 2018 through October 28, 2018.

Dated: October 11, 2018.

T.C. Wiemers,

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

[FR Doc. 2018–22519 Filed 10–16–18; 8:45 am]

BILLING CODE 9110–04–P

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; correction.

SUMMARY: On September 18, 2018, the Department of Veterans Affairs (VA) published a final rule amending its regulations governing veterans' eligibility for VA pensions and other needs-based benefit programs. The final rule contained some errors in its preamble and in one amendment to the CFR. This document corrects those errors.

DATES: These corrections are effective on October 18, 2018.

FOR FURTHER INFORMATION CONTACT: Marie Gregory, 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: In FR Doc. No. 2018–19895 appearing on page 47246 in the **Federal Register** of Tuesday, September 18, 2018, the following corrections are made:

Corrections

1. On page 47260, third column, under the heading ''1. Changes to Exclusions,'' add the following paragraph:

''At the outset, as a technical matter, the paragraph proposed as § 3.279(a) is recharacterized in this final rule as an introductory paragraph. Thus, proposed paragraphs (b) through (e) are recharacterized as final paragraphs (a) through (d), respectively.''

2. On page 47261, first column, in the first full paragraph, the third and fourth sentences are corrected to read as follows:

''We have made this addition to final §§ 3.261, 3.262, and 3.272, and final § 3.279 lists this exclusion at paragraph (d)(1). Given this addition and the recharacterization of proposed paragraphs (b) through (e) discussed above, we have renumbered proposed § 3.279(e)(1) through (8) as final § 3.279(d)(2) through (9), respectively.''

3. On page 47261, second column, in the first paragraph, the third sentence is corrected to read as follows:

''Final § 3.279(b)(1), (2), and (3) use the term ''assets'' in the first column rather than the term ''net worth'' as proposed.''

4. On page 47261, third column, in the second paragraph, the fourth sentence is corrected to read as follows:

''We make no substantive change based on this comment because the $2,000 cap is statutory.''

5. On page 47261, third column, in the fourth paragraph, the first and second sentences are corrected to read as follows:

''One commenter opined that the exclusion at proposed § 3.279(b)(1) was 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 substantive change because the statute cited, section 1408, pertains to interests of American Indians in trusts or restricted lands and is listed in final § 3.279(b)(2), where we note such payments are excluded from income (up to $2,000 per year) and assets.''

6. On page 47261, third column, in the fifth paragraph, the first sentence is corrected to read as follows:

''However, the commenter goes on to quote from 42 U.S.C. 4636, which is the basis of the relocation payment exclusion listed at final § 3.279(a)(1).''

7. On page 47262, first column, in the first full paragraph, second sentence is corrected to read as follows:

''This payment type was listed as an income exclusion at proposed § 3.279(d)(1) and is now at final § 3.279(c)(1).''

8. On page 47262, first column, in the first full paragraph, the fourth sentence is corrected to read as follows:

''Therefore, the only substantive change we make here is to update the statutory citation.''

9. On page 47262, first column, the second paragraph is corrected to read as follows:

''Similarly, the same commenter stated that payments to AmeriCorps participants, listed as an exclusion from income at proposed § 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 substantive changes based on this comment.''

10. On page 47263, first column, in the first paragraph under the heading ''3. Distribution and Derivation Tables for Exclusions,'' the fifth sentence is corrected to read as follows:

''The derivation table here corrects one error from the table providing this information in the proposed rule, and updates the paragraphs in accord with the recharacterization of proposed paragraphs (b) through (e) discussed above.''

11. On page 47263, second column, table 2 is corrected to read as follows:

TABLE 2—SECTION 3.279 DERIVATION FROM PREVIOUS § 3.272

New § 3.279	Derived from previous § 3.272 (or ''New'')
3.279(a)(1)	New.
3.279(a)(2)	3.272(v).
3.279(a)(3)	3.272(p).
3.279(a)(4)	New.
3.279(a)(5)	3.272(o).
3.279(a)(6)	3.272(u).
3.279(a)(7)	New.
3.279(b)(1)	New.
3.279(b)(2)	3.272(r).
3.279(b)(3) through (b)(5)	New.
3.279(b)(6)	3.272(t).
3.279(b)(7) through (c)(2)	New.
3.279(c)(3)	3.272(k).
3.279(d)(1) through (d)(9)	New.

12. On page 47263, second column, table 3 is corrected to read as follows:

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(c)(3).
3.272(l) through (n)	No change.
3.272(o)	3.279(a)(5).
3.272(p)	3.279(a)(3).
3.272(q)	3.272(o).
3.272(r)	3.279(b)(2).
3.272(s)	3.272(p).
3.272(t)	3.279(b)(6).
3.272(u)	3.279(a)(6).
3.272(v)	3.279(a)(2).
3.272(w)	Removed.
3.272(x)	3.272(q).

13. On page 47267, first column, in the third paragraph, the second sentence is corrected to read as follows:

''We are spelling out the acronym ''aka'' used in proposed § 3.279(a) (now the introductory paragraph to final § 3.279), and making a technical correction to proposed § 3.279(e)(9) (now final § 3.279(d)(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.''

■ 14. On page 47269, first column, in added paragraph (u) in the amendments to § 3.262, the second sentence is corrected to read as follows:

§ 3.262 [Corrected]

* * * * *

(u) * * * See § 3.279(d)(1).

* * * * *

Approved: October 12, 2018.

Jeffrey M. Martin,

Assistant Director, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

[FR Doc. 2018–22564 Filed 10–16–18; 8:45 am]

BILLING CODE 8320–01–P

POSTAL SERVICE

39 CFR Part 20

International Competitive Services Product and Price Changes

AGENCY: Postal Service™.

ACTION: Final rule.

SUMMARY: The Postal Service is revising *Mailing Standards of the United States Postal Service,* International Mail Manual (IMM®), to reflect the prices, product features, and classification changes to Competitive Services, as established by the Governors of the Postal Service.

DATES: *Effective date:* January 27, 2019.

FOR FURTHER INFORMATION CONTACT: Paula Rabkin at 202–268–2537.

SUPPLEMENTARY INFORMATION: New prices will be posted under Docket Number CP2019–3 on the Postal Regulatory Commission website at *http://www.prc.gov.*

Over the course of time, country names have changed due to a variety of political or cultural reasons. In collaboration with International Postal Affairs and requests made through the Universal Postal Union, the Postal Service is updating country names throughout mailing standards, changing Great Britain and Northern Ireland to United Kingdom of Great Britain and Northern Ireland and changing Swaziland to Eswatini.

This final rule describes the international price and classification changes and the corresponding mailing standards changes for the following Competitive Services:

- Global Express Guaranteed® (GXG®).
- Priority Mail Express International®.
- Priority Mail International®.
- First-Class Package International Service® (FCPIS®).
- International Priority Airmail® (IPA®).
- International Surface Air Lift® (ISAL®).
- Direct Sacks of Printed Matter to One Addressee (Airmail M-bag® services).
- *The following international extra services and fees:*
- International Insurance.
- International Certificate of Mailing.
- International Registered Mail.
- International Return Receipt.
- International Postal Money Orders.
- International Money Order Inquiry Fee.
- International Money Transfer Service.
- Customs Clearance and Delivery Fee.

New prices will be located on the Postal Explorer® website at *https://pe.usps.com.*

Global Express Guaranteed

Global Express Guaranteed (GXG) service provides fast international shipping and date-certain delivery with a money-back guarantee, with international transportation and delivery provided through an alliance with FedEx Express®. The price increase for GXG service averages 4.9 percent.

The Postal Service provides Commercial Base® pricing to online customers who prepare and pay for GXG shipments via USPS-approved payment methods (other than Click-N-Ship® service), with a 5 percent discount off the published retail prices for GXG service. Customers who prepare GXG shipments via Click-N-Ship service will continue to pay retail prices. Commercial Plus® prices are set to match the Commercial Base prices.

Priority Mail Express International

Priority Mail Express International service provides fast service to approximately 180 countries in 3–5 business days, for many major markets, although the actual number of days may vary based upon origin, destination and customs delays. Priority Mail Express International with Money-Back Guarantee service is available for certain destinations. The price increase for Priority Mail Express International service averages 3.9 percent. The Commercial Base price for customers who prepare and pay for Priority Mail Express International shipments via permit imprint, online at *USPS.com*®, or as registered end-users using an authorized PC Postage vendor (with the exception of Click-N-Ship service) will be 4.9 percent below the retail price. Customers who prepare Priority Mail Express International shipments via Click-N-Ship service pay retail prices. Commercial Plus prices are set to match the Commercial Base prices.

The Postal Service will also continue to include Priority Mail Express International service in customized Global Expedited Package Services (GEPS) contracts offered to customers who meet certain revenue thresholds and are willing to commit a larger amount of revenue to the USPS® for Priority Mail Express International service and Priority Mail International service.

Priority Mail International

Priority Mail International is an economical way to send merchandise and documents to approximately 180 countries in 6–10 business days, for many major markets, although the actual number of days may vary based upon origin, destination and customs delays. The price increase for Priority Mail International service averages 3.9 percent. The Commercial Base price for customers who prepare and pay for Priority Mail International items via permit imprint, online at *USPS.com,* or as registered end-users using an authorized PC Postage vendor (with the exception of Click-N-Ship) will be 5 percent below the retail price. Customers who prepare Priority Mail International shipments via Click-N-Ship pay retail prices. Commercial Plus prices are set to match Commercial Base prices. The Postal Service will continue to include Priority Mail International service in customized GEPS contracts offered to customers who meet certain revenue thresholds and are willing to commit to a larger amount of revenue to the USPS for Priority Mail Express International and Priority Mail International.

Priority Mail International flat rate pricing continues to be available for Flat Rate Envelopes, Small Flat Rate Priced Boxes, and Medium and Large Flat Rate Boxes.

First-Class Package International Service

First-Class Package International Service (FCPIS) is an economical international service for small packages weighing less than 4 pounds and not exceeding $400 in value. The price increase for FCPIS averages 3.9 percent. The Commercial Base price for customers who prepare and pay for FCPIS items via permit imprint or by USPS-approved online payment methods will be 5 percent below the retail price. Customers who prepare FCPIS shipments via Click-N-Ship service pay retail prices. Commercial Plus prices are set to match the Commercial Base prices.

Electronic USPS Delivery Confirmation International service—abbreviated E–USPS DELCON INTL®—is available for First-Class Package International Service items to select destination countries at no charge.

International Priority Airmail and International Surface Air Lift

International Priority Airmail (IPA) service, including IPA M-bags®, is an economical commercial service designed for volume mailings of all First-Class Mail International postcards, letters, and large envelopes (flats), and for volume mailings of First-Class Package International Service packages (small packets) weighing up to a maximum of 4.4 pounds. IPA shipments are typically flown to foreign destinations (exceptions apply to Canada and Mexico) and are then entered into that country's air or surface priority mail system for delivery. The price increase for IPA and IPA M-bags is 19.9 percent. International Surface Airlift (ISAL) is similar to IPA except that once flown to the foreign destination, it is entered into that country's air or surface nonpriority mail system for delivery. The price increase for ISAL, as well as ISAL M-Bags, is 19.9 percent.

Direct Sacks of Printed Matter to One Addressee (Airmail M-bags)

An airmail M-bag is a direct sack of printed matter sent to a single foreign addressee at a single address. Prices are based on the weight of the sack. The price increase for Airmail M-bag service averages 5.0 percent.

International Extra Services and Fees

Depending on country destination and mail type, customers may add a variety of extra services to their outbound shipments and pay a variety of fees. The Postal Service proposes to increase fees for certain competitive international extra services including:

International Insurance

Global Express Guaranteed, each additional $100 or fraction over $100 (maximum indemnity varies by country).

Fee: $1.05.

$100.01–$200.00	$1.05
$200.01–$300.00	2.10
$300.01–$400.00	3.15
$400.01–$500.00	4.20
$500.01–$600.00	5.25
$600.01–$700.00	6.30
$700.01–$800.00	7.35

$800.01–$900.00	8.40
$8.40 plus $1.05 per $100 or fraction thereof over $900	1.05

Priority Mail Express International and Priority Mail International, each additional $100 or fraction over $100 (maximum indemnity varies by country).

Fee: $1.05.

$200.01–$300.00	$6.50
$300.01–$400.00	8.05
$400.01–$500.00	9.60
$500.01–$600.00	11.15
$600.01–$700.00	12.70
$700.01–$800.00	14.25
$800.01–$900.00	15.80
$15.80 plus $1.55 per $100 or fraction thereof over $900 in declared value	1.55

CERTIFICATE OF MAILING

	Fee
Individual pieces	
Individual article (PS Form 3817)	$1.45
Duplicate copy of PS Form 3817 or PS Form 3665 (per page)	1.45
Firm mailing sheet (PS Form 3665), per piece (minimum 3) First-Class Mail International only	0.50
Bulk quantities	
For first 1,000 pieces (or fraction thereof)	8.55
Each additional 1,000 pieces (or fraction thereof)	1.07
Duplicate copy of PS Form 3606	1.45

Return Receipt

Fee: $4.10.

International Money Order Inquiry

Fee: $7.25.

International Postal Money Orders

Fee: $9.50.

International Money Transfer Service

Fee:

$0.01–$750.00	$13.95
$750.01–$1,500.00	19.95
Refunds	29.95
Change of Recipient	15.50

Customs Clearance and Delivery

Fee: Per piece $6.40.

The Postal Service hereby adopts the following changes to *Mailing Standards of the United States Postal Service,* International Mail Manual (IMM), which is incorporated by reference in the *Code of Federal Regulations.* See 39 CFR 20.1.

List of Subjects in 39 CFR Part 20

Foreign relations, International postal services.

Accordingly, 39 CFR part 20 is amended as follows:

PART 20—[AMENDED]

■ 1. The authority citation for 39 CFR part 20 continues to read as follows:

Authority: 5 U.S.C. 552(a); 13 U.S.C. 301–307; 18 U.S.C. 1692–1737; 39 U.S.C. 101, 401, 403, 404, 407, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3622, 3626, 3632, 3633, and 5001.

■ 2. Revise the following sections of *Mailing Standards of the United States Postal Service,* International Mail Manual (IMM), as follows:

Mailing Standards of the United States Postal Service, International Mail Manual (IMM)

* * * * *

[*Throughout the IMM, change all references to* ''*Great Britain and Northern Ireland*'' *to* ''*United Kingdom of Great Britain and North Ireland*'' *and place in correct alphabetical order in lists*]

[*Throughout the IMM, change all references to* ''*Swaziland*'' *to* ''*Eswatini*'' *and place in correct alphabetical order in lists*]

* * * * *

We will publish an appropriate amendment to 39 CFR part 20 to reflect these changes.

Ruth Stevenson,

Attorney, Federal Compliance.

[FR Doc. 2018–22472 Filed 10–16–18; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

39 CFR Part 111

Domestic Competitive Products Pricing and Mailing Standards Changes

AGENCY: Postal Service™.

ACTION: Final rule.

SUMMARY: The Postal Service is amending *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM®), to reflect changes to prices and mailing standards for competitive products.

DATES: *Effective Date:* January 27, 2019.

FOR FURTHER INFORMATION CONTACT: Tom Foti at (202) 268–2931 or Garry Rodriguez at (202) 268–7281.

SUPPLEMENTARY INFORMATION: This final rule describes new prices and product features for competitive products, by class of mail, established by the Governors of the United States Postal Service®. New prices are available under Docket Number CP2019–3 on the Postal Regulatory Commission PRC website at *http://www.prc.gov,* and on the Postal Explorer® website at *http://pe.usps.com.*

The Postal Service will revise *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM), to reflect changes to prices and mailing standards for the following competitive products:

- Priority Mail Express®.
- Priority Mail®.
- First-Class Package Service®.
- Parcel Select®.
- USPS Retail Ground®.
- Extra Services.
- Return Services.
- Mailer Services.
- Recipient Services.

Competitive product prices and changes are identified by product as follows:

Priority Mail Express

Prices

Overall, Priority Mail Express prices will increase 3.9 percent. Priority Mail Express will continue to offer zoned and Flat Rate Retail, Commercial Base™, and Commercial Plus™ pricing.

Retail prices will increase an average of 3.9 percent. The Flat Rate Envelope price will increase to $25.50, the Legal Flat Rate Envelope will increase to $25.70, and the Padded Flat Rate Envelope will increase to $26.20.

Commercial Base prices offer lower prices to customers who use authorized postage payment methods. Commercial Base prices will increase an average of 3.9 percent.

Commercial Plus prices were matched to the Commercial Base prices in the 2016 price change and will continue to be matched in 2018.

Dimensional Weight Pricing

The Postal Service is implementing Dimensional Weight (DIM) pricing for Priority Mail Express retail and commercial parcels. Postage for Priority Mail Express parcels addressed for delivery to Zones 1 through 9 and exceeding 1 cubic foot (1,728 cubic inches) will be based on the actual weight or the dimensional weight, whichever is greater.

Priority Mail Express DIM weight pricing will be calculated using one of two formulas, rectangular or nonrectangular, with a DIM divisor of 166.

Priority Mail

Prices

Overall, Priority Mail prices will increase 5.9 percent. Priority Mail will continue to offer zoned and Flat Rate Retail, Commercial Base, and Commercial Plus pricing.

Retail prices will increase an average of 6.6 percent. The Flat Rate Envelope price will increase to $7.35, the Legal Flat Rate Envelope will increase to $7.65, and the Padded Flat Rate Envelope will increase to $8.00. The Small Flat Rate Box price will increase to $7.90 and the Medium Flat Rate Boxes will increase to $14.35. The Large Flat Rate Box will increase to $19.95 and the APO/FPO/DPO Large Flat Rate Box will increase to $18.45.

Commercial Base prices offer lower prices to customers who use authorized postage payment methods. Commercial Base prices will increase an average of 3.2 percent.

The Commercial Plus price category offers price incentives to large volume customers who have a customer commitment agreement with USPS®. Commercial Plus prices will increase an average of 6.2 percent.

Dimensional Weight Pricing

The Postal Service is extending the zones for Priority Mail retail, commercial, and commercial plus Dimensional Weight (DIM) pricing to include all zones. Postage for Priority Mail parcels addressed for delivery to Zones 1 through 9 and exceeding 1 cubic foot (1,728 cubic inches) will be based on the actual weight or the dimensional weight, whichever is greater.

The Postal Service will also change the DIM divisor used in the rectangular and nonrectangular formulas to 166.

Balloon Pricing

As a result of the zone extension to include all zones for Priority Mail DIM weight pricing, the Postal Service will eliminate balloon pricing under the retail, commercial, and commercial plus price categories.

First-Class Package Service

Prices

Overall, First-Class Package Service—Retail prices will increase 13.3 percent.

Overall, First-Class Package Service—Commercial prices will increase 11.9 percent.

Zone Pricing

First-Class Package Service—Retail and First-Class Package Service—Commercial price computation will change to weight and zone based pricing. First-Class Package Service—Retail prices will continue to start at 1 ounce up to 13 ounces and First-Class Package Service—Commercial prices will continue to start at 1 ounce up to less than 16 ounces.

Parcel Select

Prices

The prices for Parcel Select Destination Entry increase an average of 9.3 percent. Parcel Select Ground prices will decrease an average of 1.3 percent. The prices for Parcel Select Lightweight® will increase an average of 12.3 percent.

Dimensional Weight Pricing

The Postal Service is implementing Dimensional Weight (DIM) weight pricing for Parcel Select parcels in the Destination Entry and Ground price categories. Postage for Parcel Select parcels addressed for delivery to Zones 1 through 9 and exceeding 1 cubic foot (1,728 cubic inches) will be based on the actual weight or the dimensional weight, whichever is greater.

Parcel Select DIM weight pricing will be calculated using one of two formulas, rectangular or nonrectangular, with a DIM divisor of 166.

Balloon Pricing

As a result of the implementation of DIM pricing for Parcel Select parcels in zones 1 through 9, the Postal Service will eliminate balloon pricing under the Destination Entry and Ground price categories.

USPS Retail Ground

Overall, USPS Retail Ground prices will increase an average of 3.9 percent.

Extra Services

Adult Signature Service

Adult Signature Required and Adult Signature Restricted Delivery service prices are increasing 4.9 percent. The price for Adult Signature Required will increase to $6.40 and Adult Signature Restricted Delivery will increase to $6.66.

Return Services

Parcel Return Service

Overall, Parcel Return Service prices will increase an average of 6.8 percent.

Return Sectional Center Facility (RSCF) prices will increase an average of 6.4 percent and Return Delivery Unit (RDU) prices will increase an average of 7.3 percent.

Mailer Services

Pickup on Demand Service

The Pickup on Demand® service fee will increase 4.5 percent to be $23.00.

Recipient Services

Post Office Box Service

The competitive Post Office Box™ service prices will increase an average of 10.0 percent within the existing price ranges.

Premium Forwarding Service

Premium Forwarding Service® (PFS®) prices will increase between 4.9 and 11.1 percent depending on the specific price element. The enrollment fee paid at the retail counter for PFS-Residential will increase to $21.10 and the PFS-Residential and PFS-Commercial enrollment fee paid online will increase to $19.35 per application. The price of the weekly shipment charge for PFS-Residential will increase to $21.10.

Premium Forwarding Service Local

The Postal Service is adding another option to the Premium Forwarding Service product, Premium Forwarding Service Local (PFS-Local). PFS-Local provides residential and business customers the option to have USPS gather their mail addressed to Post Office Boxes (except no fee Group E boxes) within the same servicing postal facility, and dispatch the mail to their delivery street address. An annual enrollment fee is required, and a reshipment fee is charged for each container of mail requested and received by the customer (Monday through Saturday).

USPS Package Intercept

The USPS Package Intercept™ fee will increase 4.8 percent to $14.10.

Other

Address Enhancement Service

Address Enhancement Service competitive product prices will increase between 2.6 and 4.0 percent.

Small Parcel Forwarding Fee

The Postal Service is introducing a ''small parcel'' forwarding fee for Parcel Select Lightweight parcels. The forwarding fee would only apply for pieces endorsed ''Change Service Requested'' under ''Option 2'' (ACS only) that are forwarded due to an active change-of-address. All other undeliverable pieces will be discarded and an electronic ACS notice is provided in both cases.

Overweight Item Charge

As discussed in the August 29, 2018, **Federal Register** final rule (83 FR 43985–43986), the Postal Service is introducing a charge for items identified in the postal network that exceed the 70 pound weight limit for Postal Service products, and are therefore are nonmailable. Overweight items identified in the postal network will be assessed a $100 charge payable before release of the item, unless the item is picked up at the same facility where it was entered.

Resources

The Postal Service provides additional resources to assist customers with this price change for competitive products. These tools include price lists, downloadable price files, and **Federal Register** Notices, which may be found on the Postal Explorer® website at *http://pe.usps.com.*

For the above reasons, the Postal Service adopts the following changes to *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM), incorporated by reference in the *Code of Federal Regulations.* See 39 CFR 111.1.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

Accordingly, 39 CFR part 111 is amended as follows:

PART 111—[AMENDED]

■ 1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 13 U.S.C. 301–307; 18 U.S.C. 1692–1737; 39 U.S.C. 101, 401, 403, 404, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3622, 3626, 3632, 3633, and 5001.

■ 2. Revise *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM) as follows:

Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM)

* * * * *

100 Retail Mail Letters, Cards, Flats, and Parcels

* * * * *

110 Priority Mail Express

113 Prices and Eligibility

1.0 Prices and Fees

* * * * *

[Renumber 1.3 through 1.5 as 1.4 through 1.6 and add new 1.3 to read as follows:]

1.3 Dimensional Weight Price for Low-Density Parcels to Zones 1–9

Postage for parcels addressed for delivery to Zones 1–9 and exceeding 1 cubic foot (1,728 cubic inches) is based on the actual weight or the dimensional weight (as calculated in 1.3.1 or 1.3.2), whichever is greater.

1.3.1 Determining Dimensional Weight for Rectangular Parcels

Follow these steps to determine the dimensional weight for a rectangular parcel:

a. Measure the length, width, and height in inches. Round off (see 604.7.0) each measurement to the nearest whole inch.

b. Multiply the length by the width by the height.

c. If the result exceeds 1,728 cubic inches, divide the result by 166 and round up (see 604.7.0) to the next whole number to determine the dimensional weight in pounds.

d. If the dimensional weight exceeds 70 pounds, the customer pays the 70-pound price.

1.3.2 Determining Dimensional Weight for Nonrectangular Parcels

Follow these steps to determine the dimensional weight for a nonrectangular parcel:

a. Measure the length, width, and height in inches at their extreme dimensions. Round off (see 604.7.0) each measurement to the nearest whole inch.

b. Multiply the length by the width by the height.

c. Multiply the result by an adjustment factor of 0.785.

d. If the final result exceeds 1,728 cubic inches, divide the result by 166 and round up (see 604.7.0) to the next whole number to determine the dimensional weight in pounds.

e. If the dimensional weight exceeds 70 pounds, the customer pays the 70-pound price.

* * * * *

120 Priority Mail

123 Prices and Eligibility

1.0 Prices and Fees

* * * * *

[Delete 1.3, Balloon Price, in its entirety and renumber 1.4 through 1.7 as 1.3 through 1.6.]

[Revise the heading and text of renumbered 1.3 to read as follows:]

1.3 Dimensional Weight Price for Low-Density Parcels to Zones 1–9

Postage for parcels addressed for delivery to Zones 1–9 and exceeding 1 cubic foot (1,728 cubic inches) is based on the actual weight or the dimensional weight (as calculated in 1.3.1 or 1.3.2), whichever is greater.

1.3.1 Determining Dimensional Weight for Rectangular Parcels

Follow these steps to determine the dimensional weight for a rectangular parcel:

* * * * *

[Revise the text of renumbered item 1.3.1c to read as follows:]

c. If the result exceeds 1,728 cubic inches, divide the result by 166 and round up (see 604.7.0) to the next whole number to determine the dimensional weight in pounds.

[Add new item d to read as follows:]

d. If the dimensional weight exceeds 70 pounds, the customer pays the 70-pound price.

1.3.2 Determining Dimensional Weight for Nonrectangular Parcels

Follow these steps to determine the dimensional weight for a nonrectangular parcel:

* * * * *

[Revise the text of renumbered item 1.3.2d to read as follows:]

d. If the final result exceeds 1,728 cubic inches, divide the result by 166 and round up (see 604.7.0) to the next whole number to determine the dimensional weight in pounds.

* * * * *

130 Retail First-Class Mail and First-Class Package Service—Retail

133 Prices and Eligibility

1.0 Prices and Fees

* * * * *

1.2 Price Computation for First-Class Mail and First-Class Package Service—Retail

[Revise the text of 1.2 to read as follows:]

First-Class Mail and First-Class Package Service—Retail prices are charged as follows:

a. First-Class Mail—Per ounce or fraction thereof; any fraction of an ounce is considered a whole ounce. For example, if a piece weighs 0.5 ounces, the weight (postage) increment is 1 ounce.

b. First-Class Package Service—Retail—Based on weight and zone; any fraction of an ounce is considered a whole ounce.

* * * * *

200 Commercial Letters, Flats, and Parcels

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210 Priority Mail Express

213 Prices and Eligibility

1.0 Prices and Fees

* * * * *

[Renumber 1.5 through 1.7 as 1.6 through 1.8 and add new 1.5 to read as follows:]

1.5 Dimensional Weight Price for Low-Density Parcels to Zones 1–9

Postage for parcels addressed for delivery to Zones 1–9 and exceeding 1 cubic foot (1,728 cubic inches) is based on the actual weight or the dimensional weight (as calculated in 1.5.1 or 1.5.2), whichever is greater.

1.5.1 Determining Dimensional Weight for Rectangular Parcels

Follow these steps to determine the dimensional weight for a rectangular parcel:

a. Measure the length, width, and height in inches. Round off (see 604.7.0) each measurement to the nearest whole inch.

b. Multiply the length by the width by the height.

c. If the result exceeds 1,728 cubic inches, divide the result by 166 and round up (see 604.7.0) to the next whole number to determine the dimensional weight in pounds.

d. If the dimensional weight exceeds 70 pounds, the customer pays the 70-pound price.

1.5.2 Determining Dimensional Weight for Nonrectangular Parcels

Follow these steps to determine the dimensional weight for a nonrectangular parcel:

a. Measure the length, width, and height in inches at their extreme dimensions. Round off (see 604.7.0) each measurement to the nearest whole inch.

b. Multiply the length by the width by the height.

c. Multiply the result by an adjustment factor of 0.785.

d. If the final result exceeds 1,728 cubic inches, divide the result by 166 and round up (see 604.7.0) to the next whole number to determine the dimensional weight in pounds.

e. If the dimensional weight exceeds 70 pounds, the customer pays the 70-pound price.

* * * * *

220 Priority Mail

223 Prices and Eligibility

1.0 Prices and Fees

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[Delete 1.5, Balloon Price, in its entirety and renumber 1.6 through 1.11 as 1.5 through 1.10.]

[Revise the heading and text of renumbered 1.5 to read as follows:]

1.5 Dimensional Weight Price for Low-Density Parcels to Zones 1–9

Postage for parcels addressed for delivery to Zones 1–9 and exceeding 1 cubic foot (1,728 cubic inches) is based on the actual weight or the dimensional weight (as calculated in 1.5.1 or 1.5.2), whichever is greater.

1.5.1 Determining Dimensional Weight for Rectangular Parcels

Follow these steps to determine the dimensional weight for a rectangular parcel:

* * * * *

[Revise the text of renumbered item 1.5.1c to read as follows:]

c. If the result exceeds 1,728 cubic inches, divide the result by 166 and round up (see 604.7.0) to the next whole number to determine the dimensional weight in pounds.

[Add new item d to read as follows:]

d. If the dimensional weight exceeds 70 pounds, the customer pays the 70-pound price.

1.5.2 Determining Dimensional Weight for Nonrectangular Parcels

Follow these steps to determine the dimensional weight for a nonrectangular parcel:

* * * * *

[Revise the text of renumbered item 1.5.2d to read as follows:]

d. If the final result exceeds 1,728 cubic inches, divide the result by 166 and round up (see 604.7.0) to the next whole number to determine the dimensional weight in pounds.

* * * * *

250 Parcel Select

253 Prices and Eligibility

1.0 Prices and Fees

* * * * *

[Renumber 1.3 as 1.4 and add new 1.3 to read as follows:]

1.3 Dimensional Weight Price for Low-Density Parcels to Zones 1–9

Postage for parcels addressed for delivery to Zones 1–9 and exceeding 1 cubic foot (1,728 cubic inches) is based on the actual weight or the dimensional weight (as calculated in 1.3.1 or 1.3.2), whichever is greater.

1.3.1 Determining Dimensional Weight for Rectangular Parcels

Follow these steps to determine the dimensional weight for a rectangular parcel:

a. Measure the length, width, and height in inches. Round off (see 604.7.0) each measurement to the nearest whole inch.

b. Multiply the length by the width by the height.

c. If the result exceeds 1,728 cubic inches, divide the result by 166 and round up (see 604.7.0) to the next whole number to determine the dimensional weight in pounds.

d. If the dimensional weight exceeds 70 pounds, the customer pays the 70-pound price.

1.3.2 Determining Dimensional Weight for Nonrectangular Parcels

Follow these steps to determine the dimensional weight for a nonrectangular parcel:

a. Measure the length, width, and height in inches at their extreme dimensions. Round off (see 604.7.0) each measurement to the nearest whole inch.

b. Multiply the length by the width by the height.

c. Multiply the result by an adjustment factor of 0.785.

d. If the final result exceeds 1,728 cubic inches, divide the result by 166 and round up (see 604.7.0) to the next whole number to determine the dimensional weight in pounds.

e. If the dimensional weight exceeds 70 pounds, the customer pays the 70-pound price.

* * * * *

280 First-Class Package Service—Commercial

283 Prices and Eligibility

1.0 Prices and Fees

1.1 Price Application

[Revise the first sentence of 1.1 to read as follows:]

Postage is based on the price that applies to the weight and zone of each addressed piece. * * *

* * * * *

285 Mail Preparation

1.0 Preparation for First-Class Package Service—Commercial

The following standards apply to single-piece First-Class Package Service—Commercial:

* * * * *

[Revise the text of item b to read as follows:]

b. There are no presorting requirements for single-piece First-Class Package Service—Commercial parcels paid with postage evidencing system postage.

[Renumber 2.0 as 3.0 and add new 2.0 to read as follows:]

2.0 Preparation of Permit Imprint Mailings

2.1 Identical Weight Pieces

To use a permit imprint, the pieces must be of identical weight and, unless all the pieces are in a weight category for which the price does not vary by zone, the pieces must be separated by zone when presented to the Post Office, except under 2.2.

2.2 Nonidentical Weight Pieces

A permit imprint may be used for mailings of nonidentical-weight pieces only if authorized by Business Mailer Support at USPS Headquarters.

* * * * *

500 Additional Mailing Services

* * * * *

505 Return Services

1.0 Business Reply Mail (BRM)

1.1 BRM Postage and Fees

1.1.1 Basic BRM

[Revise the second sentence of 1.1.1 to read as follows:]

* * * For First-Class Package Service—Retail, or Priority Mail BRM pieces exceeding 13 ounces in weight, if the zone cannot be determined from a return address or cancellation, then the permit holder is charged zone 4 postage based on the weight of the piece. * * *

* * * * *

1.1.5 Bulk Weight Averaged Nonletter-Size BRM

[Revise the text of 1.1.5 to read as follows:]

In addition to an annual permit fee (which will apply under 1.2.3 for the return of any flat-size pieces), per piece fee and the applicable Retail First-Class Mail, First-Class Package Service—Retail, or Priority Mail postage, permit holders participating in bulk weight averaged nonletter-size BRM under 1.8 must pay an annual account maintenance fee and a monthly maintenance fee.

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508 Recipient Services

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7.0 Premium Forwarding Services

[Renumber 7.1 as 7.2, delete the heading of current 7.2, Preparation, and renumber current 7.2.1 as 7.2.6. Add new 7.1 to read as follows:]

7.1 Premium Forwarding Services Description

Premium Forwarding Services offers three options as follows:

a. Premium Forwarding Service Residential (PFS-Residential): Provides certain residential customers an option to have all mail addressed to their primary address shipped to a temporary address as described under 7.2.

b. Premium Forwarding Service Commercial (PFS-Commercial): Provides business commercial customers the option to have USPS gather their mail addressed to business P.O. Boxes or business street addresses and dispatched to a new address as described under 7.3.

c. Premium Forwarding Service Local (PFS-Local): Provides certain residential/individual and business/organization Post Office Box holders the option to have the USPS gather their mail addressed to their P.O. Box for delivery to their street address as described under 7.4.

* * * * *

[Add new section 7.4 to read as follows:]

7.4 Premium Forwarding Service Local

7.4.1 Description

Premium Forwarding Service Local (PFS-Local) provides certain residential/individual and business/organization Post Office Box holders the option to have the USPS gather their mail addressed to their P.O. Box (excludes no-fee Group E P.O. Boxes) and dispatch the mail to their delivery street address when both addresses are within the same local servicing postal facility. An annual enrollment fee is required, and a reshipment fee is charged (see 7.4.3b) for each reshipment container. Email notifications are sent regarding reshipments or when there is no mail available to forward. See Notice 123—*Price List* for postage price and fee.

7.4.2 Activation

Customers must enroll for PFS-Local and pay the annual enrollment fee online via USPS.com at *www.usps.com/manage/forward.htm* for residential/individual boxholders or the Business Customer Gateway at *https://gateway.usps.com/eAdmin/view/signin* for business/organization boxholders. Customers must specify the active P.O. Box, a deliverable destination address, and frequency (Monday through Saturday). Service is activated electronically, upon receipt of an email confirmation.

7.4.3 Conditions

Only the residential/individual use P.O. Box customer or authorized recipient (or legal agent) of a business' (or organization's) P.O. Box mail that is on file may activate the request for PFS-Local service. PFS-Local service is subject to these conditions:

a. Customers must pay an annual enrollment fee per P.O. Box to establish service. The enrollment fee is refundable only if the request is denied.

b. The annual enrollment and reshipment fees are paid using a credit card for residential/individual use P.O. Box customers or a permit linked to the Enterprise Payment System (EPS) account for commercial customers.

c. The reshipment fee is charged for each reshipment container. Customers may request reshipments Monday through Saturday.

d. If no mail is collected for reshipment on a designated frequency day, no reshipment fee is charged.

e. Any mailpiece arriving postage due is charged using the customer's postage due account prior to delivery. If no account exists, the appropriate postage due is collected upon delivery.

f. A business must keep a postage-due merchandise return service (MRS) account or business reply mail (BRM) account at the originating postal facility where the P.O. Box or business street address is located. Any short paid, MRS, or BRM pieces will be charged to the mailer's account prior to reshipment.

g. Any mailpiece indicating surface only transportation such as Label 127, *Surface Mail only,* or bears other hazardous materials markings such as ''Consumer Commodity ORM–D'' is not included in the reshipment and a delivery notice will be provided in the PFS-Local reshipment.

h. Mailpieces that do not fit in the reshipment container, or that require a scan or signature, will be scanned (when applicable) and recorded on a firm sheet (Form 3883–A) for delivery in the PFS-Local reshipment upon signature of Form 3849.

i. Some mailpieces may be reshipped separately from the PFS-Local shipment to the customer's deliverable physical street address.

j. Customers may cancel their PFS-Local service effective 24 hours after the USPS receives the customer's request for cancellation through USPS.com or the Business Customer Gateway. The customer must pay all reshipment fees as applicable for any reshipments already scheduled before cancellation of service is made effective.

k. USPS may cancel a customer's PFS-Local service request effective 24 hours after the customer receives written notice of cancellation from the serving Post Office. Cancellation is based upon the customer's failure to pay the fees, failure to meet the standards for PFS-Local service, or when there is substantial reason to believe that the service is being or will be used for unlawful activities (in this case, cancellation within less than 24-hours may be granted by USPS). The customer may appeal this cancellation of services to the Manager, Post Office Operations, but must pay for all reshipment fees as applicable for any service provided during the appeal period.

7.4.4 Prohibited Use

PFS-Local is not available for:

a. Customers who have an active change-of-address (COA) (temporary or permanent).

b. Customers who have an active Hold Mail Authorization (Form 8076). Mail that has previously been held at the primary P.O. Box address cannot be included in the reshipments.

c. Customers who have a no-fee Group E P.O. Box.

d. Customers whose primary P.O. Box address is a central point to which the USPS provides delivery in bulk to a third party, such as a commercial mail receiving agency (CMRA).

e. Customers whose primary address or temporary address is an APO/FPO or DPO.

f. Customers whose address is within the 969 3-digit ZIP Code area or is otherwise in a U.S. territory or possession that requires a customs declaration.

g. Customers who have an active PFS-Residential or PFS-Commercial order.

* * * * *

600 Basic Standards for All Mailing Services

601 Mailability

1.0 General Standards

* * * * *

1.2 Overweight Items

[Revise 1.2 by adding a new last sentence to read as follows:]

* * * Unless the item is picked up at the same facility where it was entered, an Overweight item charge of $100 will be assessed and must be paid by any authorized retail payment method or through the Enterprise Payment System, before release of the item.

* * * * *

Notice 123 (Price List)

[Revise competitive prices as applicable.]

* * * * *

We will publish an appropriate amendment to 39 CFR part 111 to reflect these changes.

Ruth B. Stevenson,

Attorney, Federal Compliance.

[FR Doc. 2018–22474 Filed 10–16–18; 8:45 am]

BILLING CODE 7710–12–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket Nos. 090206140–91081–03 and 120405260–4258–02]

RIN 0648–XG550

Authorization of Revised Reporting Requirements Due to Catastrophic Conditions for Federal Seafood Dealers and Individual Fishing Quota Dealers in Portions of Florida

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

ACTION: Temporary rule; determination of catastrophic conditions.

SUMMARY: In accordance with the regulations implementing the individual fishing quota (IFQ) and Federal dealer reporting programs specific to the commercial reef fish fishery in the Gulf of Mexico (Gulf) and the coastal migratory pelagic (CMP) fisheries in the Gulf, the Regional Administrator (RA), Southeast Region, NMFS has determined that Hurricane Michael has caused catastrophic conditions in multiple counties. This temporary rule announcing the determination of catastrophic conditions and authorization to use alternative methods for completing required IFQ and other dealer reporting administrative functions is intended to facilitate continuation of IFQ and dealer reporting

operations during the period of catastrophic conditions. NMFS will continue to monitor and evaluate conditions and a subsequent **Federal Register** document will be published, if needed to address any changes.

DATES: The RA is authorizing Federal dealers and IFQ dealers in the affected area to use revised reporting methods from October 12, 2018, through November 21, 2018.

FOR FURTHER INFORMATION CONTACT: IFQ Customer Service, telephone: 866–425–7627, fax: 727–824–5308, email: *SER–IFQ.Support@noaa.gov*. For Federal dealer reporting, Fisheries Monitoring Branch, telephone: 305–361–4581.

SUPPLEMENTARY INFORMATION: NMFS has determined that Hurricane Michael has caused catastrophic conditions in the following counties: Bay, Calhoun, Dixie, Escambia, Franklin, Gadsden, Gulf, Hamilton, Holmes, Jackson, Jefferson, Lafayette, Leon, Liberty, Madison, Okaloosa, Santa Rosa, Suwannee, Taylor, Wakulla, Walton, and Washington County, Florida; and Barbour, Bullock, Coffee, Dale, Geneva, Henry, Houston, Lee, Macon, and Russell County, Alabama. Consistent with those regulations, the RA has authorized any dealer in the affected area who does not have access to electronic reporting to delay reporting of trip tickets to NOAA Fisheries from October 12, 2018, through November 21, 2018. The RA has also authorized IFQ dealers within this affected area to use paper-based forms, if necessary, for basic required administrative functions, *e.g.,* landing transactions, from October 12, 2018, through November 21, 2018.

The reef fish fishery of the Gulf is managed under the Fishery Management Plan (FMP) for Reef Fish Resources of the Gulf of Mexico, prepared by the Gulf of Mexico Fishery Management Council (Gulf Council). The CMP fishery (king mackerel, Spanish mackerel, and cobia) is managed under the FMP for CMP Resources in the Gulf of Mexico and Atlantic Region, prepared by the Gulf Council and South Atlantic Fishery Management Council. Both FMPs are implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

The Generic Dealer Amendment established Federal dealer reporting requirements for federally permitted dealers in the Gulf and South Atlantic (79 FR 19490; April 9, 2014). Amendment 26 to the FMP established an IFQ program for the commercial red snapper component of the Gulf reef fish fishery (71 FR 67447; November 22, 2006). Amendment 29 to the FMP established an IFQ program for the commercial grouper and tilefish components of the Gulf reef fish fishery (74 FR 44732; August 31, 2009). Regulations implementing these IFQ programs (50 CFR 622.21 and 622.22) and the dealer reporting requirements (50 CFR 622.5(c)) require that Federal dealers and IFQ participants have access to a computer and internet and that they conduct administrative functions associated with dealer reporting and the IFQ program, *e.g.,* landing transactions, online. However, these regulations also specify that during catastrophic conditions, as determined by the RA, the RA may waive or modify the reporting time requirements for dealers and authorize IFQ participants to use paper-based forms to complete administrative functions for the duration of the catastrophic conditions. The RA must determine that catastrophic conditions exist, specify the duration of the catastrophic conditions, and specify which participants or geographic areas are deemed affected.

Hurricane Michael made landfall in the U.S. near Mexico Beach, Florida, in the Gulf as a Category 4 hurricane on October 10, 2018. Strong winds and flooding from this hurricane impacted communities throughout Florida's panhandle region and coastal Alabama, resulting in power outages and damage to homes, businesses, and infrastructure. As a result, the RA has determined that catastrophic conditions exist in the following counties along the Gulf: Bay, Calhoun, Dixie, Escambia, Franklin, Gadsden, Gulf, Hamilton, Holmes, Jackson, Jefferson, Lafayette, Leon, Liberty, Madison, Okaloosa, Santa Rosa, Suwannee, Taylor, Wakulla, Walton, and Washington County, Florida; and Barbour, Bullock, Coffee, Dale, Geneva, Henry, Houston, Lee, Macon, and Russell County, Alabama. Through this temporary rule, the RA is authorizing Federal dealers in this affected area to delay reporting of trip tickets to NOAA Fisheries and IFQ dealers in this affected area to use paper-based forms, from October 12, 2018, through November 21, 2018. NMFS will provide additional notification to affected dealers via NOAA Weather Radio, Fishery Bulletins, and other appropriate means. NOAA Fisheries will continue to monitor and re-evaluate the areas and duration of the catastrophic conditions, as necessary.

Dealers may delay electronic reporting of trip tickets to NMFS during catastrophic conditions. Dealers are to report all landings to NMFS as soon as possible. Assistance for Federal dealers in effected area is available from the Fisheries Monitoring Branch at 1–305–361–4581. NMFS previously provided IFQ dealers with the necessary paper forms (sequentially coded) and instructions for submission in the event of catastrophic conditions. Paper forms are also available from the RA upon request. The electronic systems for submitting information to NMFS will continue to be available to all dealers, and dealers in the affected area are encouraged to continue using these systems, if accessible.

The administrative program functions available to IFQ dealers in the area affected by catastrophic conditions will be limited under the paper-based system. There will be no mechanism for transfers of IFQ shares or allocation under the paper-based system in effect during catastrophic conditions. Assistance in complying with the requirements of the paper-based system will be available via the Catch Share Support line, 1–866–425–7627 Monday through Friday, between 8 a.m. and 4:30 p.m., Eastern Time.

Classification

The Regional Administrator, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and management of reef fish and CMP species managed under the Gulf IFQ Programs and the Federal dealer reporting programs, as applicable, and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.5(c)(iii), 622.21(a)(3)(iii), and 622.22(a)(3)(iii), and is exempt from review under Executive Order 12866.

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

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive the requirements to provide prior notice and opportunity for public comment on this temporary rule. Such procedures are unnecessary because the final rules implementing the Gulf IFQ programs and the Gulf and Atlantic Federal dealer reporting have already been subject to notice and public comment. These rules authorize the RA to determine when catastrophic conditions exist, and which participants or geographic areas are deemed affected by catastrophic conditions. The final rules also authorize the RA to provide timely notice to affected participants via publication of notification in the **Federal Register**, NOAA Weather Radio,

Fishery Bulletins, and other appropriate means. All that remains is to notify the public that catastrophic conditions exist and that paper forms may be utilized by IFQ dealers in the affected area and that Federal dealers may submit delayed reports. Additionally, delaying this temporary rule to provide prior notice and opportunity for public comment would be contrary to the public interest because affected dealers are still fishing for and receiving these species in the affected area and need a means of completing their landing transactions. With the power outages and damages to infrastructure that have occurred in the affected area due to Hurricane Michael, numerous businesses are unable to complete landings transactions and dealer reports electronically. In order to continue with their businesses, IFQ dealers need to be aware they can still complete landing transactions and dealer reports using the paper forms.

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

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

Dated: October 12, 2018.

Margo B. Schulze-Haugen,

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

[FR Doc. 2018–22647 Filed 10–12–18; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 170816769–8162–02]

RIN 0648–XG528

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 610 in the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for pollock in Statistical Area 610 in the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2018 total allowable catch of pollock for Statistical Area 610 in the GOA.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), October 13, 2018, through 2400 hours, A.l.t., December 31, 2018.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–7228.

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

The 2018 total allowable catch (TAC) of pollock in Statistical Area 610 of the GOA is 30,799 metric tons (mt) as established by the final 2018 and 2019 harvest specifications for groundfish in the GOA (83 FR 8768, March 1, 2018) and one in-season adjustment (83 FR 42609, August 23, 2018).

In accordance with § 679.20(d)(1)(i), the Regional Administrator has determined that the 2018 TAC of pollock in Statistical Area 610 of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 30,699 mt and is setting aside the remaining 100 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 610 of the GOA.

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

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of directed fishing for pollock in Statistical Area 610 of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of October 11, 2018.

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

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

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

Dated: October 12, 2018.

Margo B. Schulze-Haugen,

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

[FR Doc. 2018–22642 Filed 10–12–18; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 83, No. 201
Wednesday, October 17, 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 HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2018–0929]

RIN 1625–AA08

Special Local Regulations; Marine Events in the Coast Guard Sector Detroit Captain of the Port Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule is intended to amend the rules that regulate vessel traffic and control navigation of portions of waterways during events that pose a hazard to public safety. This rule, if adopted, would add six new reoccurring special local regulations, remove six special local regulations, and amend the event, dates, and/or regulated areas for the 15 recurring special local regulations that will be listed in a table. The permanent special local regulations established by this proposed rule are necessary to protect spectators, participants, and vessels from the hazards associated with the varying types of marine events. This proposed rulemaking would restrict vessel traffic in the designated areas during the events unless authorized by the Captain of the Port Detroit or a designated representative. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before November 16, 2018.

ADDRESSES: You may submit comments identified by docket number USCG–2018–0929 using the Federal eRulemaking portal at *http://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Tracy Girard, Prevention Department, Sector Detroit, Coast Guard; telephone (313) 568–9564, email *Tracy.M.Girard@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background, Purpose, and Legal Basis

Marine events are held on a recurring basis on the navigable waters within the Coast Guard Sector Detroit COTP Zone. In past history, the Coast Guard established special local regulations for these recurring event. These events have been submitted annually to ensure the protection of the maritime public and event participants from the hazards associated with these events. The Coast Guard has never received public comments or concerns regarding the impact to waterway traffic from these annually reoccurring events.

This proposed rule would consistently apprise the public in a timely manner through permanent publication in Title 33 of the Code of Federal Regulations. The table in this proposed rule would list each annual recurring event requiring a special local regulated area as administered by the Coast Guard.

By establishing permanent regulations containing these events, the Coast Guard would eliminate the need to establish temporary rules for events that occur on an annual basis and thereby limit the costs associated with cumulative regulations. This rulemaking would remove, add, and consolidate regulations to better meet the Coast Guard's intended purpose of ensuring safety during these events. The Coast Guard proposes this rulemaking under authority in 33 U.S.C. 1233.

III. Discussion of Proposed Rule

The purpose of this rulemaking is to combine all of the Captain of the Port Detroit Zone's special local regulations from 33 CFR 100.911 through § 100.928, into one table under § 100.911. This table will ensure accuracy of times, dates, and dimensions for various marine events that are expected to be conducted within the Captain of the Port Detroit Zone throughout the year. We also propose to remove § 100.911, § 100.912, § 100.913, § 100.914, § 100.915, § 100.916, § 100.917, § 100.918, § 100.919, § 100.920 § 100.921, § 100.927, § 100.928 replacing these regulations with a table. In addition, we propose to add three rowing events, two swim events, and a water ski show to the table.

As large numbers of spectator vessels and marine traffic are expected to congregate around the event location, the regulated areas are needed to protect both spectators and participants from the safety hazards associated with the event. During the enforcement period of the regulated areas, persons and vessels would be prohibited from entering, transiting through, remaining, anchoring or mooring within the zone unless specifically authorized by the COTP or the designated representative. The Coast Guard may be assisted by other Federal, State and local agencies in the enforcement of these regulated areas. These events are listed below in the text of the regulation.

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

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

The Coast Guard has previously promulgated special local regulations or safety zones, in 33 CFR part 100, for all event areas contained within this

proposed regulation and has not received notice of any negative impact caused by any of the special local regulations. By establishing a permanent regulation containing all of these events, the Coast Guard will eliminate the need to establish individual temporary rules for each separate event that occurs on an annual basis, thereby limiting the costs of cumulative regulations.

B. Impact on Small Entities

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

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

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves regulated areas for swim events and other marine events. Normally such actions are categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A preliminary Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

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

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

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

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

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and record keeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

■ 2. Revise § 100.911 to read as follows:

§ 100.911 Special Local Regulations; Marine Events in the Coast Guard Sector Detroit Captain of the Port Zone.

(a) *General.* The following regulations apply to the marine events listed in Table 1 to § 100.911, along with the requirements of § 100.901. These regulations will be enforced for the duration of each event, on or about the dates indicated. Annual notice of the exact dates and times of the effective period of the regulations with respect to each event, the geographical area, and details concerning of the event will be made by publication in the **Federal Register** via a Notice of Enforcement, published in a Local Notices to Mariners, and broadcast over VHF–FM radio. Although listed in the Code of Federal Regulations, sponsors of events listed in the table to § 100.911 are still required to submit marine event applications in accordance with § 100.15.

(b) *Special local regulations.* No vessel may enter, transit through, or anchor within the regulated area without the permission of the Coast Guard Patrol Commander.

(c) Vessel operators desiring to enter or operate within the regulated area shall contact the Coast Guard Patrol Commander to obtain permission to do so. Vessel operators given permission to enter or operate within the regulated area must comply with all directions given to them by the Coast Guard Patrol Commander.

(d) All geographic coordinates in Table 1 to § 100.911 are North American Datum of 1983 (NAD 83).

TABLE 1 TO § 100.911

COTP Zone Detroit		
Event	**Sector Detroit Special Local Regulations**	**Date**
(a) *Hebda Cup Rowing Regatta* Rowing Event Wyandotte, MI.	All waters of the Detroit River, Trenton Channel between the following two lines going from bank-to-bank: The first line is drawn directly across the channel from position 42°10.98′ N, 083°09.29′ W; the second line, to the north, is drawn directly across the channel from position 42°11.7′ N, 083°08.9′ W.	Two days in April or May.
(b) *Wy-Hi Rowing Regatta* Rowing Event— Wyandotte, MI.	All waters of the Detroit River, Trenton Channel between the following two lines going from bank-to-bank: The first line is drawn directly across the channel from position 42°10.98′ N, 083°09.29′ W; the second line, to the north, is drawn directly across the channel from position 42°11.7′ N, 083°08.9′ W.	Two days in April or May.
(c) *Wyandotte Rowing Regatta* Wyandotte, MI.	All waters of the Detroit River, Trenton Channel between the following two lines going from bank-to-bank: The first line is drawn directly across the channel from position 42°10.98′ N, 083°09.29′ W; the second line, to the north, is drawn directly across the channel from position 42°11.7′ N, 083°08.9′ W.	Two days in April or May.
(d) *Motor City Mile* Swimming Event Detroit, MI.	All waters of the Detroit River, Belle Isle Beach between the following two lines: The first line is drawn directly across the channel from position 42°20.517′ N, 082°59.159′ W to 42°20.705′ N, 082°59.233′ W; the second line, to the north, is drawn directly across the channel from position 42°20.754′ N, 082°58.681′ W to 42°20.843′ N, 082°58.792′ W.	One day in June or July.
(e) *Wyandotte Invites* Rowing Event Wyandotte, MI.	All waters of the Detroit River, Trenton Channel between the following two lines going from bank-to-bank: The first line is drawn directly across the channel from position 42°10.98′ N, 083°09.29′ W; the second line, to the north, is drawn directly across the channel from position 42°11.7′ N, 083°08.9′ W.	One day in July or August.
(f) *Roar on the River* Powerboat Race Trenton, MI.	All U.S. waters of the Trenton Channel bounded by an east/west line starting at a point on land at the northern end of Elizabeth Park in Trenton, MI, located at position 42°8.2′ N; 083°10.6′ W, extending east to a point near the center of the Trenton Channel at position 42°8.2′ N; 083°10.4′ W, extending South to the Grosse Ile Parkway Bridge located at position 42°7.7′ N; 083°10.5′ W, west to the shore.	Three consecutive days in July or August.
(g) *St. Clair River Classic* Power Boat Race St. Clair, MI.	All U.S. waters of the St. Clair River bounded by latitude 42°50.5′ N to the north and latitude 42°48.5′ N to the south; the shoreline of the St. Clair River on the west; and the international boundary line on the east.	One weekend in July or August.
(h) *Marine City Water Ski Show* Marine City, MI.	All U.S. waters of the St. Clair River 200 feet seaward of latitude position 42°43.382′ N, and to the south by 2,000 feet to 200 feet seaward of latitude position 42°42.983′ N.	One day at the end of July or beginning of August.
(i) *Detroit Hydrofest* Power Boat Race Detroit, MI.	All U.S. waters of the Detroit River in Scott Middle Ground, north of Belle Isle, Michigan, starting at positions 42°20.506′ N, 083°00.016′ W, on the Douglas MacArthur Bridge; extending east to the Belle Isle Crib Light at 42°21.205′ N, 082°57.996′ W.	Three consecutive days in August or September.
(j) *Bay City Grand Prix* Powerboat Races Bay City, MI.	All waters of the Saginaw River bounded on the north by the Liberty Bridge, located at 43°36.3′ N, 083°53.4′ W, and bounded on the south by the Veterans Memorial Bridge, located at 43°35.8′ N, 083°53.6′ W.	One weekend at the end of June or beginning of July.
(k) *Tug Across the River* Detroit, MI.	All U.S. waters of the Detroit River, Detroit, Michigan, bounded on the south by the International boundary, on the west by 083°03′ W, on the east by 083°02′ W, and on the north by the U.S. shoreline. This position is located on the Detroit River in front of Hart Plaza, Detroit, MI.	One day in June or July.

TABLE 1 TO § 100.911—Continued

Event		
(l) *Michigan Championships* Swimming Event Detroit, MI.	All waters of the Detroit River and Belle Isle Beach between the following two lines: The first line is drawn directly across the channel from position 42°20.517′ N, 082°59.159′ W to 42°20.705′ N, 082°59.233′ W; the second line, to the north, is drawn directly across the channel from position 42°20.754′ N, 082°58.681′ W to 42°20.997′ N, 082°58.846′ W.	One day in August or September.
(m) *Bay City Tall Ships* Parade of Sail Bay City, MI.	All waters throughout the federal navigational channel of Saginaw Bay from Light Buoy 11 at position 43°43.90′ N, 083°46.87′ W and Light 12 at position 43°43.93′ N, 083°46.95′ W to the Saginaw River, and on all waters of the Saginaw River from its mouth to the Veterans Memorial Bridge in Bay City, MI at position 43°35.77′ N, 083°53.60′ W.	Tri-annually in July.
Event	**Marine Safety Unit Toledo Special Local Regulations**	**Date**
(n) *Frogtown Race Regatta* Toledo, OH.	All waters of the Maumee River, Toledo, OH, from the Martin Luther King Jr. Memorial Bridge at River Mile 4.30 to the Michael DiSalle Bridge at River Mile 6.73.	One day in September.
(o) *Dragon Boat Learning Festival* Toledo, OH.	All waters of the Maumee River in Toledo, OH between the Martin Luther King Jr. Memorial Bridge at river mile 4.30 and a line extending from a point at position 41°38.78′ N, 083°31.84′ W at International Park straight across the river to shore near the mouth of Swan Creek at position 41°38.79′ N, 083°32.03′ W.	One day in June or July.

§§ 100.912 through 100.921, 100.927, and 100.928 [Removed]

■ 3. Remove §§ 100.912, 100.913, 100.914, 100.915, 100.916, 100.917, 100.918, 100.919, 100.920, 100.921, 100.927, and 100.928.

Dated: October 11, 2018.

Jeffrey W. Novak,

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

[FR Doc. 2018–22517 Filed 10–16–18; 8:45 am]

BILLING CODE 9110–04–P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Parts 201 and 202

[Docket No. 2018–9]

Registration Modernization

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

ACTION: Notification of inquiry.

SUMMARY: The U.S. Copyright Office is building a new registration system to meet the demands of the digital age. As the Office develops a new technological infrastructure for this system, it is considering several legal and policy changes to improve user experience, increase Office efficiency, and decrease processing times. The Office is seeking public comment to inform its decisions on how to improve the regulations and practices related to the registration of copyright claims.

DATES: Written comments must be received no later than 11:59 p.m. Eastern Time on January 15, 2019.

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

FOR FURTHER INFORMATION CONTACT: Regan A. Smith, General Counsel and Associate Register of Copyrights at *regans@copyright.gov;* Robert J. Kasunic, Associate Register of Copyrights and Director of Registration Policy and Practice at *rkas@copyright.gov;* Erik Bertin, Deputy Director of Registration Policy and Practice at *ebertin@copyright.gov;* Cindy Abramson, Assistant General Counsel at *ciab@copyright.gov;* or Jalyce Mangum at *jmang@copyright.gov.* All can be reached by telephone by calling 202–707–3000.

SUPPLEMENTARY INFORMATION:

I. Background

The U.S. Copyright Office (the ''Office'') is statutorily responsible for administering the nation's copyright laws pursuant to the Copyright Act.[1] One of the most significant responsibilities assigned to the Office is the registration of copyright claims. The Office's registration services are vital to creators and users of creative works of all types, including large and small businesses, individuals, and non-profit organizations. Copyright registration provides essential benefits for copyright owners. Before bringing a lawsuit for infringement of a U.S. work, registration of the claim must be made in accordance with the Copyright Act, or refused by the Office.[2] A timely registration constitutes prima facie evidence of the validity of the copyright and the facts stated in the certificate of registration.[3] Additionally, copyright owners must obtain a timely registration to seek statutory damages and attorney's fees in litigation.[4] A registration also creates a public record that includes key facts relating to the authorship and ownership of the work, as well as information about the work itself, such as title, year of creation, and date of publication (if any). And an index of

[1] *See* 17 U.S.C. 701(a) (''All administrative functions and duties under this title . . . are the responsibility of the Register of Copyrights as director of the Copyright Office of the Library of Congress.'').

[2] 17 U.S.C. 411(a). The Supreme Court recently granted certiorari to resolve a conflict among the circuits concerning the interpretation of section 411(a), specifically, whether a copyright owner may commence an infringement suit after delivering the proper deposit, application, and fee to the Copyright Office, but before the Register of Copyrights has acted on the application for registration. In the government's view, the statute requires the copyright owner to receive either a registration or a refusal from the Copyright Office before instituting suit. *See* Br. for the U.S. as Amicus Curiae for Writ of Cert. at 12, *Fourth Estate Pub. Ben. Corp.* v. *Wall-Street.com, LLC,* 856 F.3d 1338 (11th Cir. 2017), (No. 17–571), *available at https://www.copyright.gov/rulings-filings/briefs/fourth-estate-pub-ben-corp-v-wall-street-com-138-s-ct-720-2018.pdf.*

[3] 17 U.S.C. 410(c).

[4] *See* 17 U.S.C. 412, 504, 505.

each registration is published in the Online Public Record, the database posted on the Office's website containing indexes of records relating to registrations and document recordations issued after 1977.[5] In fiscal year 2017, the Office received 539,662 claims to copyright and issued 452,122 registrations.[6] And in fiscal year 2018, the Office processed more than 600,000 claims. It is therefore crucial that the Office have an innovative and modern copyright registration system that can meet the rapidly expanding needs of the highly diverse copyright community and the public at large.

The Office is dedicated to modernizing its systems. Starting in 2011, the Office began a series of comprehensive and targeted efforts to understand and analyze its information technology (''IT'') needs. The Office issued its *Priorities and Special Projects of the United States Copyright Office (October 2011–October 2013),* which highlighted the need for technological upgrades. The Office then undertook a comprehensive study of its technological capabilities and needs, which included extensive stakeholder feedback. The resulting 2015 *Report and Recommendations of the Technical Upgrades Special Project Team* acknowledged challenges with the current user experience and access to the public record, and offered recommendations for improvement.[7] Based on congressional direction, the Office followed its initial report with a more detailed plan, 2016's *Provisional Information Technology Modernization Plan and Cost Analysis* (''Provisional IT Plan'').[8] And in 2017, the Office prepared a *Modified U.S. Copyright Office Provisional IT Modernization Plan* (''Modified IT Plan'')[9] at the direction of the House Committee on Appropriations that includes ''potential opportunities for shared efficiencies and cost-savings as well as ways the [Library of Congress' (the ''Library's'') Office of the Chief Information Officer (''OCIO'')] can support the Copyright Office in its overall modernization efforts.''[10]

A principal reason that the Office has prioritized modernization is to improve the Office's processing times for claims submitted for registration.[11] Current processing times vary based on a number of factors, including delays in the receipt of the deposit, the number of examiners available to review pending claims, the complexity of the claim, whether there are errors or inconsistencies in the registration materials, and whether the Office needs to correspond with an applicant to resolve those issues. If the examiner sends an email or other correspondence, the applicant will be given 45 days to respond, and if the applicant responds in a timely manner, the examiner will review and respond within 30 days after the applicant's response has been received.[12]

The Office intends to replace the current electronic system (known as ''eCO'') with a modern solution that meets the changing needs of individual creators, industry (including on the user side), copyright practitioners, and the general public. In the past year, the Office engaged stakeholders in targeted outreach efforts with the assistance of a third-party contractor. The contractor interviewed numerous examiners, supervisors, and managers from the Office's Registration Program to identify common problems faced by applicants and the Office. External user interviews were conducted in Washington DC, New York City, Nashville, and Los Angeles with companies, organizations, lawyers, and individual creators who engage with the copyright registration system. In addition, the Office analyzed eCO survey data as well as calls received by the Public Information Office (''PIO'') and eCO help desk, which included over 10,000 responses from individual applicants.

Based on the information gathered during these outreach efforts, the Office is planning to develop several solutions to improve the registration system. These solutions will include a more powerful dashboard, which will allow users to track application progress; an integrated drag and drop submission option for electronic deposits; and an improved messaging system to confirm that a submission has been received and provide details on what to expect next. The Office also intends to improve the flow and usability of the user interface. For example, the Office plans to develop a mechanism that will allow users to view a draft version of the registration certificate before final submission to confirm that the correct information has been entered. The Office also plans to implement more automated validations to enhance the application.

As the Office identifies the IT infrastructure needed to support the new registration system, we are considering a number of legal and policy changes to improve the efficiency of the system for both users and the Office. The Office invites public comment in three specific areas of reform: The administration and substance of the application for registration, the utility of the public record, and the deposit requirements for registration.

While this document addresses a broad range of issues related to the national copyright registration system, the Office will continue to focus on additional topics in current and future rulemakings and notices of inquiry. For example, the Office has open rulemakings related to certain group registration options, and is preparing additional notices concerning group registration options for musical compositions and sound recordings, certain short online literary works, and websites.[13]

II. Subjects of Inquiry

A. The Application Process: How Users Engage With the Registration System

1. New Solutions for Delivering Application Assistance: How should the Office integrate in-application support and assistance to users of the electronic registration system?

Through the data it has collected, the Office confirmed that users approach

[5] Indexes of records related to earlier registrations and recordations, as well as the actual records, are available at the Copyright Office.

[6] *See* U.S. Copyright Office, Fiscal 2017 Annual Report 4–5 (2017), *available at https://www.copyright.gov/reports/annual/2017/ar2017.pdf.* During the same period, the Office rejected more than 17,000 claims for failure to comply with the statutory and/or regulatory requirements for registration, and closed more than 52,000 claims because the applicant failed to respond to a written communication from the Office.

[7] *See* U.S. Copyright Office, Report and Recommendations of the Technical Upgrades Special Project Team (Feb. 18, 2015), *available at https://www.copyright.gov/docs/technical_upgrades/usco-technicalupgrades.pdf.*

[8] U.S. Copyright Office, Provisional Information Technology Modernization Plan and Cost Analysis (Feb. 29, 2016), *available at http://www.copyright.gov/reports/itplan/technology-report.pdf.*

[9] Library of Congress & U.S. Copyright Office, Modified U.S. Copyright Office Provisional IT Modernization Plan (Sept. 1, 2017), *available at http://www.copyright.gov/reports/itplan/modified-modernization-plan.pdf.*

[10] *See* 163 Cong Rec. H4033 (daily ed. May 3, 2017) (explanatory statement submitted by Rep. Rodney Frelinghuysen, Chairman of the H. Comm. on Appropriations), *available at https://www.congress.gov/congressional-record/2017/5/3/house-section/article/H3949-2; see also* Modified IT Plan at 1.

[11] The current processing times are posted on the Office's website with separate figures for claims submitted through the electronic registration system and claims filed on paper forms. *See Registration Processing Times, Copyright.gov, https://www.copyright.gov/registration/docs/processing-times-faqs.pdf.*

[12] U.S. Copyright Office, Compendium of U.S. Copyright Office Practices 605.6(B), (D) (3d ed. 2017) (''Compendium (Third)'').

[13] Information related to open rulemakings, including instructions for submitting public comments, can be found at *https://www.copyright.gov/rulemaking/.*

the electronic registration system with varying levels of understanding of copyright law and technical experience. Infrequent users require more guidance than frequent users. Therefore, in-application assistance should be pointed and flexible.

The Office is considering a multi-tier option that will offer different levels of support during the online application process. The first level, or Tier One, would provide the most elementary and basic support by placing an icon next to certain application terms that would expand to display one to two concise sentences of explanatory text. At Tier Two, users would receive in-depth substantive assistance through a help panel that would expand to provide comprehensive information and instructions on pertinent copyright concepts. The Office is also contemplating a live chat support feature to resolve common problems quickly and efficiently, subject to the availability of resources.

The Office welcomes comment on these multi-tier support options and invites other ideas for improving in-application assistance and support. The Office also seeks comment on the potential value and benefit of a live chat service as well as the most common questions users have when filling out applications for registration.

2. Electronic Applications and Payments: Should the Office mandate the use of electronic applications and payments, and eliminate the paper application and payment options via check or money order?

Section 409 of the Copyright Act authorizes the Register of Copyrights to prescribe forms for copyright registration. At present, the Office maintains three basic registration forms: The Standard and Single electronic applications, and the paper application. Paper applications, however, continue to be less efficient than electronic forms. The Office must scan each paper form into the registration system and input the relevant information by hand before an examiner even begins to review the claim. This is a cumbersome, labor-intensive process. Also, a significant portion of claims submitted on paper forms require correspondence or other action from the Office, which further increases pendency times and contributes to the overall backlog of pending claims.[14] For example, applicants routinely fail to provide information expressly requested on paper forms, or add materially conflicting information. In many cases, the Office must contact the applicant to request additional information or permission to correct the application. As a result, paper applications are more costly to process than electronic applications, and the corresponding filing fee for a basic registration submitted on a paper form is $85 (compared to $55 for a basic registration submitted on an electronic form).[15]

Addressing common errors on paper applications imposes significant burdens on the Office's limited resources, and has had an adverse effect on the examination of claims submitted on electronic forms. Eliminating the paper application should mitigate many of these problems. Among other improvements, the new online application is expected to contain automated validations that would prevent applicants from submitting claims that fail to provide pertinent information. Also, the Office intends to develop a reliable system that is maintained to mitigate service interruptions and technical processing delays. For these reasons, the Office believes mandating electronic applications is necessary to improve the overall efficiency of the registration process.

The Office is also contemplating requiring the designation of an email address for receiving correspondence concerning applications for registration, and eliminating physical correspondence and physical forms of payment such as checks and money orders. These changes would facilitate end-to-end electronic processing of applications, thereby improving efficiency, reducing processing errors, and decreasing pendency times.[16]

The Office recognizes that public access to computers and internet technology continues to rise. Nearly every local library provides free public access to computers and the internet.[17] In fiscal year 2017, 96% of basic registrations were submitted electronically, which reflects the pervasiveness of computer and internet access among the Office's users.

At the same time, the Office is aware that certain communities do not have access to computer and internet technologies. A number of factors may contribute to a person's ability to access the Office's electronic system, including age, educational attainment, household income, and community type. Some of the most frequent users of paper applications include older adults and individuals who are incarcerated. Thus, to serve these populations and other individual needs, the Office is considering offering the paper application upon written request demonstrating sufficient need.

The Office welcomes comment on the viability of the proposal to require electronic applications and payments and invites the submission of other proposals to improve the efficiency of the Office's registration processes for populations with limited access to computer and internet technology.

3. Electronic Certificates: Should the Office issue electronic certificates and offer paper certificates for an additional fee?

The Copyright Act mandates the payment of a fee as one of the conditions for seeking a copyright registration.[18] Section 708(a)(1) of the statute provides that fees shall be paid to the Register ''on filing each application . . . for registration of a copyright claim'' and for ''the issuance of a certificate of registration if registration is made.'' The cost of issuing a certificate is included in the filing fee for a basic registration, though the Office does charge an additional fee if extra copies of the certificate are needed.[19]

The Office has always issued certificates of registration on a special type of paper that confirms the authenticity of each document. The Office prints roughly 10,000 to 20,000 certificates in any given week. This requires a substantial amount of resources both in terms of employee compensation and the cost of maintaining printing equipment. Paper certificates are also subject to delays associated with mail delivery, and many certificates are returned to the Office as undeliverable due to errors or omissions in the mailing addresses provided by

[14] The average time for the Office to resolve a paper application that requires correspondence is 20 months. By contrast, the average time for the Office to resolve an electronic application that requires correspondence is nine months. *Registration Processing Times, Copyright.gov, https://www.copyright.gov/registration/docs/processing-times-faqs.pdf* (last visited Oct. 4, 2018).

[15] The Office recently proposed to increase the filing fee for a basic registration submitted on a paper form to $125. Copyright Office Fees, 83 FR 24054, 24057 (May 24, 2018).

[16] The U.S. Patent and Trademark Office (''USPTO'') recently issued a similar proposal that would eliminate paper applications for trademark claims and require trademark applicants ''to provide and maintain an email address for correspondence.'' *See* Changes to the Trademark Rules of Practice To Mandate Electronic Filing, 83 FR 24701, 24702 (May 30, 2018).

[17] Institute of Museum and Library Services, Public Libraries in the United States Survey Fiscal Year 2012 10 (Dec. 2014), *available at https://www.imls.gov/assets/1/AssetManager/PLS_FY2012.pdf.*

[18] *See* 17 U.S.C. 408(a).

[19] *See* 37 CFR 201.3(c)(13).

applicants.[20] To expedite the delivery of certificates, and to reduce the rate of returned mail, the Office is contemplating providing electronic certificates of registration with appropriate watermarks or other security measures needed to ensure authenticity (in lieu of issuing paper certificates). The cost of the electronic certificate would be included in the basic registration fee. But upon request, the Office would provide paper certificates for an additional fee.

For copyright owners, defaulting to electronic certificates would facilitate speedier access to certificates. And it would allow the Office to reallocate resources used in printing and mailing paper certificates to other important tasks.

The Office welcomes comment on this proposal.

4. Dynamic Pricing Models: Should the Office replace the Single, Standard, and group applications with a dynamic pricing model that scales fees based on the number and type of works submitted for registration?

On May 24, 2018, the Office issued a Notice of Proposed Rulemaking and Fee Study proposing the adoption of a new fee schedule to account for inflationary increases and the expected cost of IT modernization over the next several years.[21] The Fee Study was issued pursuant to the Office's routine adjustment of fees, which occurs every three to five years, so it did not address alternative models for calculating and collecting fees.

As mentioned above, the Copyright Act requires the payment of fees ''on filing each application under section 408 for registration of a copyright claim or for a supplementary registration.'' [22] Currently, the Office maintains three basic registration forms: (1) The Standard Application, (2) the Single Application, and (3) the paper application. And the Office recently proposed fees for nine types of group applications.[23] Basic and group registrations account for the highest volume of the Office's fee generating services, and processing these registrations is the costliest activity the Office performs.[24] This is due, in part, to the varying complexity posed by certain types of claims. For example, claims submitted on the Single Application tend to be straightforward, because they must be limited to one work by one author that is owned by that same individual. By contrast, claims submitted on the Standard Application tend to be more complex because they may involve works created by multiple authors, works with multiple owners, as well as works made for hire, derivative works, collective works, compilations, or other complicated issues.

Setting fees that accurately account for difficult and/or divergent claims is important because the Office recovers approximately 60% of its costs through fees.[25] To achieve a more precise pricing model, the Office is considering adopting a system that varies fees based upon the kind of work submitted for registration and/or the number of works included in each application. This approach may also address user concerns regarding the numerical limits that currently apply to the Office's existing group registration options.

Under this approach, the fee for any particular application could be dynamic and vary based on information provided in the application. The Office could charge a base fee for registering an individual work, and an incrementally higher fee for each additional work that is added to the application (assuming the pertinent facts for each work remains the same). Or the Office could conceivably offer a subscription service that would let authors register a specific number of works over a designated period (assuming the pertinent facts for each work remain the same).

Many commenters have expressed support for these ideas.[26] The Office invites additional comment on this approach, as well as the submission of alternative methods for calculating fees that would sustain the Office, provide equity to users, and encourage registration.

B. Application Information: The Information Requested on the Application for Registration

5. Authorship Statements and Administrative Classifications: Should the Office eliminate the Author Created and Nature of Authorship sections of the application, and instead, require the applicant to identify the work being submitted for registration, rather than the elements of authorship contained in the work?

Section 409 of the Copyright Act enumerates nine items of information that should be requested on the application for registration. None of these provisions requires the applicant to identify the type of work or the type of authorship being registered, except in the case of a compilation or derivative work. But section 409(10) gives the Register discretion to request ''any other information regarded'' by her ''as bearing upon the preparation or identification of the work or the existence, ownership, or duration of the copyright.'' Pursuant to this section, the Office has required applicants to ''clearly identif[y] the copyrightable authorship that the applicant intends to register'' and ''assert a claim to copyright in that authorship.'' [27]

The statute also authorizes the Register to issue regulations specifying the ''administrative classes into which works are to be placed for purposes of deposit and registration'' and to develop the application forms that should be used to register each claim.[28] Pursuant to this authority, the Office established five administrative classes for purposes of registration—namely, literary works, serials, works of the visual arts, works of the performing arts, and sound recordings—and developed a corresponding application for each class—Forms TX, SE, VA, PA, and SR.

Because these forms can be used to register different types of works,[29] the

[20] In July 2018 alone, the Office received 1,737 pieces of returned mail, most of which were undeliverable paper certificates.

[21] 83 FR 24054 (May 24, 2018).

[22] 17 U.S.C. 708(a)(1).

[23] 83 FR at 24057.

[24] *See* Booz Allen Hamilton, 2017 Fee Study Report 13 (Dec. 2017), *available at https://www.copyright.gov/policy/feestudy2018.*

[25] U.S. Copyright Office, Fiscal 2017 Annual Report 15 (2017), *available at https://www.copyright.gov/reports/annual/2017/ar2017.pdf; see* 83 FR 24054, 24057–58 (May 24, 2018) (explaining methodology for targeted cost of fee recovery).

[26] *See, e.g.,* Coalition of Visual Artists, Comments Submitted in Response to the U.S. Copyright Office's December 1, 2016 Notice of Proposed Rulemaking at 17, 23–24, 59 (Jan. 30, 2017); Browning-Smith PC, Comments Submitted in Response to the U.S. Copyright Office's October 12, 2017 Notice of Proposed Rulemaking at 1–2 (Nov. 17, 2017); Copyright Alliance, Comments Submitted in Response to the U.S. Copyright Office's October 12, 2017 Notice of Proposed Rulemaking at 2 (Nov. 17, 2017).

[27] Compendium (Third) 618.1. This practice was a departure from the Office's practices under the 1909 Act. The prior statute enumerated 11 classes of works that were eligible for copyright protection, such as books, periodicals, lectures, and musical compositions, and the Office developed a specific registration application for each class. When completing these applications copyright owners were not asked to identify the authorship they intended to register, because this information could be deduced from the form itself. For example, a work submitted on Form K presumably contained two-dimensional artwork, because that form could only be used to register prints and pictorial illustrations.

[28] 17 U.S.C. 408(c), 409.

[29] For instance, Form SR is primarily intended for sound recordings, but it can be used to register a sound recording and the musical work, dramatic work, or literary embodied in that recording. Form SE is intended for registering a single issue of a

Continued

Office added a space to each application that asked the applicant to identify the ''nature of authorship'' being registered. But the Office found that some applicants provided vague or ambiguous statements in this portion of the application, such as ''plot,'' ''character,'' ''story idea,'' ''beats,'' ''loops,'' or ''remastering.'' To address situations where it was unclear whether statements referred to copyrightable authorship or uncopyrightable material, the Office developed extensive practices for communicating with the applicant, amending the application, and/or annotating the certificate.[30]

When the Office introduced the eCO system, it included a series of checkboxes in the ''Author Created'' field, which were intended to minimize these problems.[31] These boxes encourage applicants to provide an authorship statement that describes the work being registered. But many of the checkboxes focus on the individual elements of the work, such as ''text,'' ''music,'' or ''lyrics,'' rather than the work as a whole.

Collectively, this system can cause confusion for applicants and additional work for examiners. The Office is considering requiring applicants to identify the type of work being deposited. This approach has the benefit of ensuring that the work as a whole is considered by the examiner in addition to the individual elements of authorship. The Office is currently testing this approach with the new version of the Single Application, which was released on December 18, 2017. Instead of providing a blank space or a series of checkboxes that encourage applicants to assert claims in the individual elements of the work, the applicant is prompted to select an entry from a dropdown list that best describes the work as a whole. The Office intends to follow this same approach when it launches the new application for registering groups of unpublished works.[32]

The Office welcomes public comment on how this approach has been working. In addition, the Office welcomes public comment on the following proposals or other alternative suggestions for improving this portion of the application:

(a) Should the Office eliminate the Author Created and Nature of Authorship sections in all of its applications, and instead, allow the applicant to provide a general statement that appropriately describes the work as a whole?

(b) Should the Office eliminate the Author Created and Nature of Authorship sections in all of its applications, and instead, allow the examiner to add a statement that appropriately describes the work submitted for registration?

(c) Should the Office eliminate the Author Created and Nature of Authorship sections in all of its applications, and instead, develop a searchable, crowdsourced list of terms that could be used to describe the work—similar to the USPTO's trademark ID manual for identifying and classifying goods and services? [33]

The Office also invites comment on its current administrative classifications. These classes are solely for administrative purposes and have no bearing on the subject matter or exclusive rights provided by copyright.[34] Instead, they identify the application form used to register each type of work and determine how the Office assigns applications to examiners for processing. If the work is registered, the administrative class will be reflected in the registration number that is assigned to the certificate and the public record for that claim. Interested parties often use this information to search the Office's records for specific types of works or authors.

The Office, however, recognizes that these classifications, and the corresponding application forms, may be confusing for some applicants. Many works do not fit neatly into a specific class. For example, a children's book could be classified as either a literary or visual arts work, depending on the amount of text versus artwork that appears within the deposit, and the Office will accept such a work regardless of whether it is submitted on Form TX or Form VA.

This confusion could be alleviated by letting applicants provide a general statement describing the work as a whole. The Office could use that information to assign the work to the appropriate class for purposes of routing the application for examination and indexing the public record. The Office requests public comment on this idea. We also welcome comment on whether the Office should modify the current administrative classes or create additional or alternative class structures.

6. Derivative Works: Should the Office require users to explicitly identify whether a work submitted for registration is a derivative work?

The Copyright Act defines a derivative work as ''a work based upon one or more preexisting works, such as a translation, musical arrangement, dramatization, fictionalization, motion picture version, sound recording, art reproduction, abridgment, condensation, or any other form in which a work may be recast, transformed, or adapted.'' [35] This category also includes ''[a] work consisting of editorial revisions, annotations, elaborations, or other modifications, which, as a whole, represent an original work of authorship.'' [36] Thus, by definition, a derivative work contains at least two forms of authorship: (1) ''The authorship in the preexisting work(s) that have been recast, transformed, or adapted within the derivative work; and [(2)] the new authorship involved in recasting, transforming, or adapting the preexisting work(s).'' [37]

To register a claim to copyright in a derivative work, the Copyright Act states that the application must include ''an identification of any preexisting work or works that it is based on or incorporates, and a brief, general statement of the additional material covered by the copyright claim being registered.'' [38] The Office obtains this information on the current application in two steps. First, the Office requires the applicant to ''identify the new authorship that the applicant intends to register'' by checking ''one or more boxes that appear under the heading Author Created'' in the online application, or by providing a statement in the Nature of Authorship space on the paper application, ''that accurately describe[s] the new material that the applicant intends to register.'' [39] Second, if the derivative work contains an appreciable amount of preexisting material that is previously published, previously registered, in the public domain, or owned by a third party, the applicant must identify that material ''by checking one or more boxes'' in the Material Excluded field of the online application or by providing a brief statement in the corresponding section

serial publication, but it also can be used to register the individual articles, photographs, or other component works appearing within that issue.

[30] *See, e.g.,*Compendium (Third) 618.8(A)(1)–(11); U.S. Copyright Office, Compendium of U.S. Copyright Office Practices 619 (2d ed. 1988).

[31] This approach was inspired by Form VA, which contains a similar set of checkboxes.

[32] *See* Group Registration of Unpublished Works, 82 FR 47415, 47418–19 (Oct. 12, 2017).

[33] *See Trademark ID Manual, USPTO.gov https://tmidm.uspto.gov/id-master-list-public.html.*

[34] 17 U.S.C. 408(c).

[35] 17 U.S.C. 101 (definition of ''derivative work'').

[36] 17 U.S.C. 101 (definition of ''derivative work'').

[37] Compendium (Third) 618.5.

[38] 17 U.S.C. 409(9).

[39] Compendium (Third) 618.5.

of the paper application. As with the Author Created section discussed above, these checkboxes encourage applicants to identify individual elements of the work that should be excluded from the claim, without identifying the preexisting work itself. In addition, the applicant must identify the elements of the work that should be ''included'' in the claim by completing another set of checkboxes in the online application or by providing a brief statement in the corresponding section of the paper application.

The Office is considering a different approach to streamline the way that applicants provide this type of information. As discussed above, applicants would be asked to identify the type of work the author created. Applicants would be given an opportunity to identify any elements that should be excluded from the claim using their own words, rather than a set of predetermined checkboxes. And the Office would eliminate the requirement to identify the new material that should be ''included'' in the claim and assume that the applicant intends to register all copyrightable aspects of the work that have not been expressly disclaimed.[40]

In addition, the Office is considering asking applicants to affirmatively state whether the work submitted for registration is a derivative work. The question would be accompanied by informational text to educate applicants on derivative work authorship. If the applicant identifies the work as a derivative work, the applicant would be asked to identify the preexisting work that the derivative work is based on or incorporates. The Office welcomes comment on these proposals. The Office also invites comment on whether the Office should take a similar approach with claims involving compilations and collective works.

7. Simplifying Transfer Statements: Should the Office restrict the transfer statement options to ''by written agreement,'' ''by inheritance,'' and ''by operation of law''?

Copyright ownership in a work initially vests in the author or authors of that work.[41] However, ''[t]he ownership of a copyright may be transferred in whole or in part by any means of conveyance or by operation of law, and may be bequeathed by will or pass as personal property by the applicable laws of intestate succession.'' [42] If the individual or organization named as the claimant or co-claimant is not an author of the work, the applicant must provide ''a brief statement of how the claimant obtained ownership of the copyright.'' [43] The Office refers to this as a transfer statement.[44]

The transfer statement should confirm that the copyright was transferred to the claimant by written agreement, by inheritance, or by operation of law.[45] In the current online application, the applicant may provide this information by selecting one of the options listed in a dropdown menu.[46] The options include ''By written agreement'' (which is the most common response provided) and ''By inheritance.'' If these options do not fully describe the transfer, the applicant may provide a more specific transfer statement in a blank space marked ''Transfer Statement Other.'' [47] This option has created inefficiencies for the Office. Providing conflicting information in the ''Other'' field is one of the most common reasons that the Office must correspond with applicants, which delays the resolution of claims and increases pendency times.

Because the only acceptable means of transferring a copyright are ''by written agreement,'' ''by inheritance,'' or ''by operation of law,'' the Office is considering whether to add ''by operation of law'' to the list of acceptable transfer statements and remove the ''Other'' space. In addition, the Office plans to include automated validations that would prevent an applicant from submitting an application without a transfer statement in cases where the names provided in the author and claimant fields do not match. The Office welcomes comment on these proposals.

8. In-Process Corrections: Should the Office permit applicants to make in-process edits to open cases prior to the examination of the application materials?

Currently the Office does not permit an applicant to make manual corrections or edits to an application once it has been received by the Office. To make a correction or edit, an applicant must contact PIO and ask the Office to make the revision on the applicant's behalf. To improve efficiency, the Office is considering allowing applicants to make changes to pending applications at any point before an examiner opens the application for review.

To implement this proposal, the Office must be able to assign an appropriate Effective Date of Registration (''EDR''). The EDR is the day on which an acceptable application, complete deposit copy, and filing fee—which are later determined by the Register of Copyrights or a court of competent jurisdiction to be acceptable for registration—have all been received in the Office in proper form.[48] ''Where the three necessary elements are received at different times the date of receipt of the last of them is controlling, regardless of when the Copyright Office acts on the claim.'' [49] Certain in-process changes can affect the EDR assigned to a registered work. For example, the EDR may change if the applicant replaces the deposit copy that accompanies an application for registration or submits an insufficient or uncollectible filing fee.[50] By contrast, replacing or updating the title of the work would not change the EDR.[51]

The Office invites comment on this proposal.

9. The Rights and Permissions Field: Should the Office allow authorized users to make changes to the Rights and Permission field in a completed registration?

In completing an online application for registration, an ''applicant may provide the name, address, and other contact information for the person and/or organization that should be contacted for permission to use the work.'' [52] This is known as Rights and Permissions information. Providing this information is optional and applicants may include as little information as they prefer. The application also cautions that any information provided in this portion of the application will appear in the Online Public Record for the work.[53]

Once a certificate of registration has been issued, the Office may remove certain personally identifiable information from the Online Public Record and replace it with substitute information. To do so, the author, claimant, or an authorized representative must submit ''a written

[40] The Office is currently employing this approach with the new version of the Single Application, and it intends to follow this same approach when it launches the new application for registering groups of unpublished works. *See* Group Registration of Unpublished Works, 82 FR 47415, 47419 (Oct. 12, 2017).

[41] 17 U.S.C. 201(a).

[42] 17 U.S.C. 201(d)(1).

[43] 17 U.S.C. 409(5).

[44] Compendium (Third) 620.2.

[45] *See* 17 U.S.C. 201(d)(1), 204(a).

[46] Compendium (Third) 620.9(A).

[47] Compendium (Third) 620.9(A).

[48] 17 U.S.C. 410(d).

[49] H.R. Rep. No. 94–1476, at 157 (1976), *reprinted in* 1976 U.S.C.C.A.N. 5659, 5773.

[50] Compendium (Third) 625.2.

[51] Compendium (Third) 625.1.

[52] Compendium (Third) 622.1. There is no corresponding space for providing Rights and Permissions information in a paper application.

[53] Compendium (Third) 622.1.

request in the form of an affidavit, and must pay the appropriate fee for this service.'' [54] Alternatively, an author, claimant, or other interested party may update Rights and Permissions information by submitting an application for a supplementary registration and paying the appropriate fee for that service.[55] If the application is approved, the Office will issue a separate certificate containing the updated information, and cross-reference the records for the initial registration and the supplementary registration. However, the Office will not remove or replace the Rights and Permissions information that appears on the original certificate or record.

The Office is considering building a user interface that will let users update Rights and Permissions information, as necessary, without having to submit a formal written removal request and fee and without having to seek a supplementary registration. This proposal is aligned with the Office's general goal to empower users to engage with the Online Public Record. The Office also believes that this change would improve the accuracy of Rights and Permissions information for persons who may be interested in licensing particular works.

The Office welcomes comment on this proposal, specifically addressing how it may affect the user's decision to provide Rights and Permissions information in an application for registration and how self-service changes may improve the quality of the Online Public Record. The Office also requests comment on whether this option should be limited to the party that submitted the initial application or the account associated with that submission to prevent third parties from making unauthorized changes to the record.

10. Additional Data: What additional data should the Office collect on applications for registration? For example, should ISBNs or other unique identifiers be mandatory? Should the Office accept other optional data?

The utility of the Office's Online Public Record is affected by the search capability of the electronic system (currently, the Voyager system), but it is also affected by the data contained within the record itself. The Office seeks input from members of the public that use and search the Online Public Record to determine whether additional data could be included in the online record to enhance the functionality of the system. For instance, the number of page numbers in a book might assist in matching a particular publication with the edition of a work that was registered. Low-resolution images or sound clips could help identify a work for potential licensing. The Office welcomes comments on any additional data that should be included in the registration record to enhance the value of the public registry. In particular, should the Office allow applicants to voluntarily upload low-resolution images or sound bites of their works to appear in the Online Public Record?

As another example, the current system allows the applicant to include certain unique identifiers in the application, including an International Standard Book Number (''ISBN''), International Standard Recording Code (''ISRC''), International Standard Serial Number (''ISSN''), International Standard Audiovisual Number (''ISAN''), International Standard Music Number (''ISMN''), International Standard Musical Work Code (''ISWC''), International Standard Text Code (''ISTC''), or Entertainment Identifier Registry number (''EIDR'').[56] If these numbers are provided in the appropriate fields, they will appear on the certificate and in the Online Public Record. These unique identifiers may assist ''in the identification of a work and may facilitate licensing,'' particularly in the digital environment.[57]

The Office is considering making it mandatory for applicants to provide unique identifiers for published works if a number or code has been assigned when the claim is submitted. Alternatively, the applicant could be required to add an identifier to the record if it appears in or on the deposit copy submitted with the application for registration. The Office believes this would improve the utility of the public record because users would be able to search the Online Public Record using those unique identifiers.

The Office has noted, ''reliable, up-to-date information about copyrighted works is a critical prerequisite for efficient licensing.'' [58] As such, consistent with the in-process correction process noted above, the Office would allow applicants to add unique identifiers to pending cases as long as the changes are made before the case has been opened by the examiner. In addition, the Office is considering establishing a procedure for adding unique identifiers to completed registration records, potentially at no cost, which would be similar to the proposed procedure for updating Rights and Permissions information.

Finally, the Office appreciates that standard identifiers are not a static universe. Therefore, it is considering accepting additional identifiers in the new system, such as the Interested Parties Information (''IPI''), International Standard Name Identifier (''ISNI''), and the Plus Registry.

The Office welcomes comment on these proposals. We also invite the public to identify other types of data that could be included in the registration application—either on an optional or mandatory basis—to improve the quality and utility of the public record. The Office encourages commenters to identify any special considerations for particular categories of copyrighted works.

11. Application Programming Interfaces (''APIs''): What considerations should the Office take into account in developing APIs for the electronic registration system?

The Office is exploring the use of standard application programming interfaces (''APIs'') as part of the new electronic registration system. APIs offer opportunities for automated advancements. They could be used by companies to build a registration workflow into their normal business processes, or by third parties to create customized user interfaces for particular types of creators or industries, such as photographers, songwriters, book publishers, or recording artists. APIs could facilitate batch submissions of applications for registration. They could also be used to import and autofill work information, such as the title, author name(s), and date of publication from other databases when an author provides a unique identifier on an online application. In addition to making the application easier to complete, APIs could improve the accuracy of information provided on the application by minimizing errors from manual input, thereby increasing efficiency and decreasing processing times.

Post-registration, APIs could also facilitate the export of data from the Office's Online Public Record, allowing the record to be augmented by private

[54] 37 CFR 201.2(e)(1); Compendium (Third) 622.1. *See generally* Removal of Personally Identifiable Information from Registration Records, 82 FR 9004 (Feb. 2, 2017).

[55] 37 CFR 202.6(d), (e); Compendium (Third) 1802.

[56] Compendium (Third) 612.6(C); *see* U.S. Copyright Office, U.S. Copyright Office Adds Unique Identifiers to the Electronic Registration System, Issue No. 706 (Feb. 5, 2018), *https://www.copyright.gov/newsnet/2018/706.html.*

[57] Compendium (Third) 612.6(C).

[58] U.S. Copyright Office, Copyright and the Music Marketplace 59–62 (2015) (discussing data standards in music industry); *see* Compendium (Third) 612.6(C) (noting that unique identifiers assist ''in the identification of a work and may facilitate licensing'').

entities to provide potentially useful facts about the work that may not be captured in the Online Public Record, such as additional information about the deposited works. This could foster efficient licensing transactions in registered works, and help detect the infringement of registered works. That said, the Office is committed to providing the public with accurate information about copyright and does not want the introduction of third-party API access to enable consumer confusion or facilitate business models that charge excessive premiums or otherwise prey upon individual authors who may be less sophisticated about the copyright system.

The Office invites comment on how it should utilize APIs to integrate external data into the official registry or export internal data from the Office's registry to facilitate enhanced services offered by private entities. What factors should the Office consider? Should the Office limit API access to verified entities to minimize spam submissions and deter predatory behavior? Should the Office initiate API access through a pilot program, similar to past initiatives? [59]

C. Public Record: How Users Engage and Manage Copyright Office Records

12. The Online Registration Record: Should the Office expand the Online Public Record to include refusals, closures, correspondence, and appeals?

Because the Copyright Office is primarily an office of public record,[60] all ''public records, indexes, and deposits'' are available for public inspection pursuant to section 705(c) of the Copyright Act. In addition, with the exception of deposited articles retained by the Office,[61] section 706(a) of the Copyright Act makes the Office's records available for copying by the public. To that end, registration application materials that the Office receives, including any associated correspondence between the Office and an applicant, create public records that the Office maintains in full form within the Office and in condensed form in the Online Public Record.

Full records of approved, closed, or refused registration applications, and pending applications, including any associated correspondence, are available in the Office for public inspection and copying, under certain circumstances, and for a fee.[62] Condensed indexes of approved post-1977 registration applications are available on the Office's website for free via the Online Public Record.[63] The Office maintains the Online Public Record pursuant to section 707(a) of the Act, which provides that the Register ''shall compile and publish at periodic intervals catalogs of all copyright registrations.'' This provision also gives the Register the discretion to ''determine, on the basis of practicability and usefulness, the form'' of publication of these records.[64]

Due to considerations of feasibility and current technological limitations, the Online Public Record does not contain all of the information that is contained in the Office's full registration records. In particular, it does not include a copy of any correspondence between the Office and the applicant. It does not include information concerning claims that have been refused, claims that have been voluntarily withdrawn, or claims that have been closed for failure to respond to a written communication from the Office. Likewise, it does not contain information concerning first or second requests for reconsideration (although recent decisions that have been issued by the Review Board are available on the Office's website).[65] These types of records are maintained solely in the full registration record, which must be viewed at the Office.[66] As a result, courts, litigants, and the public may not be aware of refused claims or communications between the Office and applicant that resulted in material modifications to the registration materials.

The Office is considering whether to expand the Online Public Record to include correspondence records between the Office and an applicant, and refused registration application records including any associated appeal records.[67] The Office believes these additions would greatly improve the utility of the public record, and invites public comment on the type and scope of information that should be included in the Online Public Record. In particular, the Office invites comment on whether it should publish condensed or full versions of these records, and comment on how these changes to the public record would affect stakeholders in different industries.

13. Linking Registration and Recordation Records: What considerations should the Office take into account in expanding the Online Public Record to connect registration and recordation records and provide chain of title information?

In addition to expanding the type of information included in the Online Public Record, the Office seeks to build improved search functionality, which will include enhancing the connection between its registration and recordation records. Currently, registration and recordation records are maintained as discrete data sets. A search for a name, title, or registration number pulls up the records for any registration or recordation that has been indexed with that information. And in some cases, there are hyperlinks within the registration record that allows the user to pull up any corresponding recordation records. But it is not possible to view all of the registration and recordation information on the same screen. This limits the functionality of the Online Public Record and makes it difficult to obtain chain of title information.

The Office seeks to create a new version of the Online Public Record that would seamlessly link registration and recordation records and provide robust chain of title information. To inform its future activities concerning this endeavor, the Office invites comment on how it should link registration and recordation records in the Online Public Record, the level of detail and specificity that should be included within the chain of title, and the potential value of that information to copyright owners, users, and the general public.

[59] *See, e.g.,* Pilot Program for Bulk Submission of Claims to Copyright, 82 FR 21551 (May 9, 2017).

[60] *See generally* 17 U.S.C. 705.

[61] Only authorized persons may receive copies of deposited articles. Persons authorized to receive copies of deposited articles include the copyright claimant of record or his or her designated agent, or an attorney representing the plaintiff or defendant in litigation, actual or prospective, involving the deposit materials. 17 U.S.C. 706(b); *see also* 37 CFR 201.2(d)(2).

[62] *See* 37 CFR 201.2(b).

[63] *Public Catalog, Cocatalog.loc.gov, https://cocatalog.loc.gov.* The Copyright Office currently publishes the registration of vessel hull designs in a separate database on its website, listing all registrations in reverse chronological order. *See Registration of Vessel Designs, Copyright.gov, https://www.copyright.gov/vessels/.*

[64] 17 U.S.C. 707(a).

[65] *Review Board Letters Online, Copyright.gov, https://www.copyright.gov/rulings-filings/review-board/.*

[66] *See* 37 CFR 201.2(b)(1); 201.2(b)(5) (providing that, ''[i]n exceptional circumstances'' the Office ''may allow inspection of pending applications and open correspondence files by someone other than the copyright claimant, upon submission of a written request which is deemed by the Register to show good cause for such access and establishes that the person making the request is one properly and directly concerned.'').

[67] This proposal is made in consideration of the Removal of Personally Identifiable Information final rule codified at 37 CFR 201.2(e), (f).

14. Unified Case Numbers: Should the Office issue one case number to track and identify a work or group of works through the registration and appeal process?

The Office currently uses multiple identification numbers to keep track of applications, correspondence, and requests for reconsideration. The Office assigns a service request/case number to each application to keep track of the claim within the electronic registration system. A separate ''THREAD ID'' is assigned to each email communication sent by the Office. A separate ''Correspondence ID'' is assigned to each letter that is sent by the Office. And the Office assigns another ''Correspondence ID'' when it issues a response to a request for reconsideration.

Administering and tracking disparate numbers for these types of records has created internal and external challenges for the Office and users alike. For instance, THREAD and Correspondence ID numbers have occasionally been attached to the wrong service request/case number. Examiners often catch these errors, but they must be fixed by hand to ensure that the correspondence materials are assigned to the appropriate case. To avoid these problems and improve the transparency of its records, the Office is proposing to unify its identification numbers to create a clear relationship between an application for registration, any correspondence, and any associated request for reconsideration. This would benefit users because they would only be tasked with monitoring one case number over the life cycle of a claim. The Office invites comment on this proposal.

D. Deposit Requirements: The Deposit Requirements for Registration and Related Security Considerations

15. Digital First Strategy: Should the Office require only electronic and identifying material for all deposits for registration, thereby eliminating the need to submit physical deposits for purposes of registration?

The Office is seeking comment on a new approach for registration deposits. Under this approach, applicants would be required to submit electronic deposit copies and phonorecords, or other identifying material, for the purpose of registering a work under section 408 of the Copyright Act. Copyright owners would only be expected to submit physical copies or phonorecords if they receive a written demand from the Office for that material pursuant to the mandatory deposit provisions set forth in section 407. In other words, the Library would continue to receive physical copies or phonorecords through mandatory deposit if they are needed for its collections, but only if the Office affirmatively issues a written demand for that material on the Library's behalf and provides adequate notice to the copyright owner.[68]

The Office already administers two separate sets of deposit requirements as codified in the Copyright Act: The requirements for depositing a work for the Library pursuant to section 407 (the ''mandatory deposit requirement'') [69] and the deposit requirements for registering a work with the Copyright Office pursuant to section 408 (the ''deposit requirements for registration'').[70] It has been suggested that a digital approach to deposit requirements for registration would make clearer the discrete aims of the registration and mandatory deposit requirements, as the deposit needs for registration examination purposes in many cases can be fulfilled without receiving a physical copy of the work where identifying material is sufficient.[71]

Both sections 407 and 408 give the Register broad authority to issue regulations dictating the specific nature of the copies and phonorecords that must be deposited, and in practice, the Register has traditionally exercised this authority in significant ways. Specifically, section 408(c)(1) authorizes the Register to ''specify by regulation the administrative classes into which works are to be placed for purposes of deposit and registration, and the nature of the copies or phonorecords to be deposited in the various classes specified.'' [72] In addition, the Register may further ''require or permit, for particular classes, the deposit of identifying material instead of copies or phonorecords.'' [73] Currently, a wide range of works may be registered with identifying material, including most pictorial and graphic works and computer programs.[74]

In enacting section 407, Congress balanced different, important interests, including the ''value of the copies or phonorecords to the collections of the Library of Congress'' and ''the burdens and costs to the copyright owner of providing [copies of the works].'' [75] Thus, under section 407(c), the Register may exempt any categories of material from the mandatory deposit requirements, or demand only one copy or phonorecord if it provides a ''satisfactory archival record of a work.'' [76] As both the Office and the Library acknowledge that the Library does not need every deposit submitted for registration in its collections, over the years the Register has adopted a series of exemptions from the mandatory deposit requirement, including exemptions for most electronic works that are available only online, musical works that are published solely on phonorecords, advertising material, scientific or technical diagrams, greeting cards, individual lectures or sermons, and most three-dimensional sculptural works.[77]

Considering a digital approach to deposit requirements for registration, the Office seeks comment on whether and how it should expand the classes of excepted works under section 408. Pursuant to its authority under section 408(c)(1), the Office is considering whether it should, for all classes of works, accept only, or preferentially, electronic copies or phonorecords and identifying material to satisfy the deposit requirement for registration.[78]

The Office takes seriously its responsibility to administer both the registration and mandatory deposit requirements. But the advent of a new registration system provides an opportunity to think innovatively about the best way to design a 21st century copyright registration system while serving the Library's collection needs. A digital approach to deposit requirements for registration would aim to (1) reduce the pendency time for processing applications, (2) reduce the number of physical deposit materials that the Office of Registration Policy & Practice (''RPP'') processes, and (3) simplify the deposit requirements for registration.

Although pendency times have improved,[79] this remains a crucial concern for the Office. On April 25, 2018, the House Subcommittee on

[68] This approach would be similar to the demand-based mandatory deposit scheme that the Office established for electronic-only serials and recently proposed to expand to include electronic-only books. *See* 75 FR 3863, 3865–66 (Jan. 25, 2010); 83 FR 16269 (Apr. 16, 2018).

[69] *See* 17 U.S.C. 407.

[70] *See* 17 U.S.C. 408.

[71] *See, e.g.,* 37 CFR 202.20(c)(2), 202.21.

[72] 17. U.S.C. 408(c)(1).

[73] 17. U.S.C. 408(c)(1).

[74] 37 CFR 202.20(c)(2) (iv), (v), (vii).

[75] H.R. Rep. No. 94–1476, at 151 (1976), *reprinted in* 1976 U.S.C.C.A.N. 5659, 5767.

[76] 17. U.S.C. 407(c).

[77] *See* 37 CFR 202.19(c).

[78] Where it is impractical or impossible to provide an electronic deposit, the Office would still accept a physical deposit.

[79] Between April 3, 2018, and October 2, 2018, the average processing time for all claims decreased from eight months to seven months. *See Registration Processing Times, Copyright.gov, https://www.copyright.gov/registration/docs/processing-times-faqs.pdf* (last visited Oct. 4, 2018).

Legislative Branch Appropriations highlighted the need for the Office to decrease its processing times in its hearing on the Library of Congress's fiscal year 2019 budget request.[80] While inquiring about the appropriate turnaround time for completing a copyright registration, Chairman Kevin Yoder emphasized that the aim is to make the registration system ''more efficient and quicker.'' [81] It is believed that this proposal would further significantly decrease burdens on both copyright owners and the Copyright Office by simplifying registration requirements and the examination process, and subsequently decreasing pendency times.

When an applicant sends a physical deposit with their application for registration, that deposit must be sent offsite to be screened and decontaminated for possible pathogens. Once the deposit is delivered to the Office, the Office's Receipt Analysis and Control Division (''RAC'') must manually match the physical deposit to its corresponding pending application and deliver the deposit to an examiner.[82] This time consuming process can delay examination. And if the examiner later discovers that the applicant submitted an incorrect deposit, this process may be repeated, which would delay examination and re-set the EDR to the date that an acceptable deposit was received by the Office. Additionally, physical deposits are often heavy and unwieldy. The Office moves these deposits multiple times during the examination process, which increases the risk that they may be damaged, misplaced, mismatched, or lost.

By contrast, when an applicant uploads a digital deposit to the electronic registration system, the Office receives the deposit as soon as the application is submitted. An examiner can immediately access the deposit when they open the application. Examiners do not need to move deposits around the Office. Electronic deposits allow examiners to process more claims per hour, thereby cutting processing times significantly.

The Office is interested in hearing from copyright owners on how this digital approach may or may not incentivize the routine registration of copyrighted works and improve the efficiency of the registration system. The Office also seeks comments on how this approach may affect copyright owners with regard to their compliance with mandatory deposit.

16. Digital Deposit Security

Any approach that increases the deposit of digital formats must be supported by a robust security system. Users have expressed concern regarding the capacity of the Office's current IT infrastructure to handle an increase in digital deposits, as well as the Office's mechanisms for securing these deposits.

The Office currently utilizes a multi-level security design to ensure the confidentiality, integrity, and availability of the data within the eCO system. The system is certified to operate at the National Institute of Standards and Technology (''NIST'') Moderate security level.[83] The entire eCO system operates on hardware and software dedicated to this system and it does not share any computer or storage resources. Strict access controls are in place throughout the system for public users, staff, and system administrators, enforcing the principle of least privilege, which means that users in each role may only access what is needed for their role. The system is also protected by multiple levels of network firewalls and other network-based security, such as anti-malware protection. Finally, the eCO system is under continuous monitoring, both operational and security, to ensure that these security controls are and remain effective.

The Office, working with OCIO, plans to implement these same controls in the new online registration system. Additionally, the Office's IT infrastructure is being updated to support increased numbers of digital deposits. The Office welcomes comment on the current and future state of the Office's deposit security as well as any additional approaches to this issue.

E. Additional Considerations

The Office is dedicated to developing a robust and efficient registration system and invites comment on any additional considerations that it should take into account during its modernization process.

Dated: October 11, 2018.

Karyn Temple,

Acting Register of Copyrights and Director of the U.S. Copyright Office.

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BILLING CODE 1410–30–P

[80] *See Legislative Branch Appropriations for 2019, Hearings Before the Subcomm. on Legislative Branch of the H. Comm. on Appropriations, Part 2,* 115th Cong., 2d Sess. 325, 357–359 (2018)(statement from Rep. Kevin Yoder, Chairman, Subcomm. on Legislative Branch concerning registration processing times, noting ''we really want the Copyright Office to be successful and [] efficient''), *available at https://www.gpo.gov/fdsys/pkg/CHRG-115hhrg30357/pdf/CHRG-115hhrg30357.pdf.*

[81] *Legislative Branch Appropriations for 2019, Hearings Before the Subcomm. on Legislative Branch of the H. Comm. on Appropriations, Part 2,* 115th Cong., 2d Sess. at 358 (2018).

[82] When an applicant submits an online application and sends the deposit through the mail, they are expected to print and attach a ''shipping slip'' to the deposit. This document contains a barcode generated by the electronic registration system that is used to connect the deposit with the appropriate registration application. Unfortunately, large quantities of deposits are submitted without a shipping slip. In such cases, RAC staff must correspond with the applicant to obtain the ten-digit case numbers that have been assigned to all of the applications submitted by that party, and then search for those applications in the electronic registration system. Before delivering the deposit to the examiner for a substantive review, RAC staff must match each application to its corresponding deposit by manually generating a new shipping slip with an identifying barcode.

[83] *See* National Institute of Standards and Technology, Minimum Security Requirements for Federal Information and Information Systems, FIPS PUB 200, available at *https://nvlpubs.nist.gov/nistpubs/FIPS/NIST.FIPS.200.pdf;* National Institute of Standards and Technology, Security and Privacy Controls for Information Systems and Organizations, SP 800–53, *available at https://csrc.nist.gov/CSRC/media//Publications/sp/800-53/rev-5/draft/documents/sp800-53r5-draft.pdf.*

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AP64

Adopting Standards for Laboratory Requirements

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) proposes to amend its medical regulations to establish standards for VA clinical laboratories. The Department of Health and Human Services (HHS) has established standards for the staffing, management, procedures, and oversight of clinical laboratories that perform testing used for the diagnosis, prevention, or treatment of any disease or impairment of, or health assessment of, human beings. VA is required, in consultation with HHS, to establish standards equal to those applicable to other clinical laboratories. As a matter of policy and practice VA has applied HHS standards to its VA laboratory operations, and this proposed rule would formalize this practice. The proposed rule would establish quality standards for laboratory testing performed on specimens from humans, such as blood, body fluid and tissue, for the purpose of diagnosis, prevention, or treatment of disease, or assessment of health. Specifically, it would address how VA applies regulations as the controlling

standards for VA medical facility laboratories.

DATES: Comments must be received on or before December 17, 2018.

ADDRESSES: Written comments may be submitted through *www.regulations.gov*; by mail or hand-delivery to the Director, Regulation Policy and Management (00REG), Department of Veterans Affairs, 810 Vermont Ave. NW, Room 1063B, Washington, DC 20420; or by fax to (202) 273–9026. Comments should indicate that they are submitted in response to ''RIN 2900–AP64—Adopting 42 CFR Part 493 Laboratory Requirements.'' Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. (This is not a toll-free number.) In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Quynh Vantu, Health Science Specialist, Pathology and Laboratory Service (10P11P), Office of Specialty Care Services, Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Ave. NW, Room 1063B, Washington, DC 20420, (202) 632–8418. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The Clinical Laboratory Improvement Amendments of 1988 (Pub. L. (PL) 100–578) amended section 353 of the Public Health Service Act to establish legal requirements for the staffing, management, procedures, and oversight of clinical laboratories that perform testing used for the diagnosis, prevention, or treatment of any disease or impairment of, or health assessment of, human beings. These statutory requirements are codified at 42 U.S.C. 263a. The term ''laboratory'' or ''clinical laboratory'' are defined at 42 U.S.C. 263a(a) as a facility for the biological, microbiological, serological, chemical, immuno-hematological, hematological, biophysical, cytological, pathological, or other examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or impairment of, or the assessment of the health of, human beings. Centers for Medicare & Medicaid Services (CMS), within HHS, promulgated regulations for the Clinical Laboratory Improvement Amendments (CLIA) at title 42, Code of Federal Regulations (CFR), Part 493. CMS has primary responsibility for the administration of the CLIA program.

''. . . [T]o assure consistent performance of medical facility laboratories under the jurisdiction of the Secretary [of Veterans Affairs] of valid and reliable laboratory examinations and other procedures,'' section 101 of Public Law 102–139 (''1991 Act'') was enacted, requiring VA, within a specified time-frame and in consultation with HHS, ''to establish standards [by regulation] equal to that applicable to other medical facility laboratories in accordance with the requirements of section 353(f) of the Public Health Service Act.'' VA's regulations must ''include appropriate provisions respecting compliance with such requirements [set forth in section 353(f) of the Public Health Service Act]'' and may include appropriate provisions respecting waivers and accreditations described in sections 353(d) and 353(e), respectively, of the Public Health Service Act. As a matter of policy and practice, VA believes it has met these statutory requirements; however, VA is issuing this proposed rule to comply with the requirement for formal rulemaking. Since enactment of section 101(a) of the 1991 Act, VA has collaborated with HHS in reviewing VA requirements and in developing standards for VA's medical facility laboratories that meet the requirements of law.

VA policy and practice regarding CLIA compliance was developed in consultation with HHS in 1994 and 1998. VA laboratories are accredited by accrediting organizations granted deeming authority by CMS (*i.e.,* HHS-approved accreditation organization) to ensure its laboratories are in compliance with current CLIA regulations. Based on consultation with CMS in 1994 and 1998, the accreditation organization(s) provide oversight for proficiency testing in VA laboratories, as set forth in CLIA. Deeming authority is granted to an accrediting organization by CMS after a determination that the organization's accreditation oversight program requires that laboratories comply with or exceed CLIA standards. CMS has granted ''deeming authority'' to several other organization allowing them to accredit laboratories and inspect the laboratories in CMS's stead. The history of the process of the development of CLIA equivalent VHA standards in consultation with CMS is documented in the interagency agreement (IAA) between VA and CMS.

In 2000, after further consultation, VA and CMS entered into an IAA, which documented the history of the parties' consultations and agreements and granted VA limited authority to act on behalf of CMS. Specifically, the IAA authorized VA to issue CMS CLIA numbers and CLIA certificates to VA laboratories, which requires VA to notify CMS when VA suspends or retires CLIA numbers assigned to VA laboratories.

This agreement was renewed in 2010, and CMS and VA have agreed to review and update the interagency agreement as necessary in 2018, and every 6 years thereafter. In addition, CMS and VA agree to meet annually to discuss program issues of mutual importance.

To ensure VA remains current with CMS CLIA requirements, VA participates in the CMS Partners in Laboratory Oversight group, consults will CMS as needed, and participates in at least one formal consultative meeting per year. These engagements with CMS facilitates ongoing communication and coordination, and promotes effective oversight necessary to coordinate major activities, and expeditious, effective response to complaints, survey findings, and publicly volatile situations. VA staff attend State Agency Surveyor training, and CLIA surveyor webinars. VA has also convened ad hoc conferences with CMS when the exchange of information on CLIA may be needed. VA provides updates at the annual partners meeting and participates in audio conferences as requested. The CMS CLIA Program Director participates in VA's annual conference in which CMS, VA, and Department of Defense provide updates on laboratory issues and enforcement of laboratory regulations. As discussed below, VA laboratories that perform testing are all accredited and inspected by accrediting organizations granted deeming authority by CMS. As such, VA has documentation that its laboratories meet current CLIA standards.

VA provides updated data to CMS for each VA laboratory assigned a CLIA number at least every two years, or as changes occur. VA provides CMS with any requested information regarding the operation and performance of VA laboratories and the operations of the oversight program.

Under the 1991 Act, the definition of ''medical facility laboratories'' has the same meaning previously used to define the terms ''laboratory'' or ''clinical laboratory'' pursuant to section 353(a) of the Public Health Service Act, codified at 42 U.S.C. 263a(a). VA concluded that it should adopt 42 CFR part 493 regulations that were applicable to clinical laboratory operations but keep oversight and enforcement of these regulations as applied to VA laboratories within VA, rather than

HHS. Under current VA practice, VA fulfills all laboratory oversight of and enforcement functions for VA laboratories that CMS fulfills for HHS with respect to laboratories subject to CLIA. VA has the authority and responsibility to provide enforcement of the CLIA regulations for VA laboratories, including imposing sanctions and discontinuing laboratory testing. VA believes this determination is consistent with the fact that Congress passed an entirely separate law (Pub. L. 102–139) for VA medical facility laboratories under the exclusive jurisdiction and control of the Secretary of Veterans Affairs.

The 42 CFR part 493 regulations are very detailed and include multiple subparts that address clinical laboratory tests. The laboratory regulations include requirements for proficiency testing; facility administration; quality systems; personnel qualifications; responsibilities for laboratory personnel, including laboratory directors and testing personnel; laboratory inspections; and enforcement. Several subparts are not directly applicable to VA medical facility laboratories because they address administration of the oversight and enforcement functions performed by CMS under 42 CFR part 493. Sections of 42 CFR part 493 that refer to the interactions with state programs, collections of fees, suspension of payments, creation of an advisory committee, and civil action are not applicable to VA, as discussed in greater detail below.

Although the requirement for consultation between HHS and VA was accomplished over 20 years ago, we are now proposing to formalize, document, and update, as necessary, VA's application of the CLIA requirements to VA laboratory operations. VA proposes to amend its medical regulations to reference the portions of 42 CFR part 493 adopted by VA as they apply to VA medical facility laboratories and clinics and to clarify that these standards are subject to VA oversight and enforcement by VA only. In addition, the proposed rule would require VA laboratories to be accredited by an accreditation organization granted deeming authority by CMS, in accordance with the accreditation requirement in CLIA, and participate in an HHS approved proficiency testing program.

Through this proposed rulemaking, in accordance with current VA policy and practice, VA can continue to assure that medical facility laboratories across our system perform consistent, accurate and reliable laboratory testing, ensuring the provision of quality testing for our veteran-patients in a manner comparable to non-VA laboratories.

We note that, in addition to 42 CFR part 493 standards, VA recognizes and adheres to worker safety standards established by the Occupational Safety and Health Administration (OSHA) and the U.S. Nuclear Regulatory Commission (NRC). In addition, the U.S. Food and Drug Administration (FDA) regulates the collection of blood and blood components intended for transfusion or for further manufacturing use, such as to make clotting factors, and establishes standards for blood and blood products. FDA also regulates related products such as cell separation devices, blood collection containers and HIV screening tests that are intended for use in the manufacture of blood or blood products. FDA develops and enforces quality standards, inspects blood establishments, and monitors reports of errors, accidents and adverse clinical events. Those additional standards are beyond the scope of this proposed rule.

VA proposes to add a new section 17.3500, ''Adopting 42 CFR Part 493 Laboratory Requirements,'' to its medical regulations. There, we would address CLIA regulations found at 42 CFR part 493, by subpart, and how VA would apply those regulations.

We state that all laboratory testing within VA performed for the diagnosis, treatment, and prevention of disease, and assessment of health in patients would comply with the relevant requirements established by HHS under 42 CFR part 493 as enforced by VA. VA laboratory testing must meet, at a minimum, requirements established in 42 CFR part 493. These requirements must be met for any laboratory service offered by a VA medical facility, as well as contracted laboratory services performed on site at VA laboratories, outreach clinics, or testing sites. Provisions that are specific to oversight by state licensure programs are not applicable, since VA as a federal entity is not subject to state licensing requirements. Except as noted in the proposed rule, functions and responsibilities assigned to CMS in 42 CFR part 493 are assumed by VA with respect to laboratories operated by or on behalf of VA.

Part 493 subpart A covers general provisions. We propose that all provisions of subpart A would apply to VA with several exceptions intended to reflect that VA has the authority, responsibility, and duty to administer 42 CFR part 493 standards within VA. We state that functions assigned to HHS in this subpart would be performed by VA. This is consistent with an IAA previously entered into between VA and CMS. The regulation would set forth that the respective provisions of 42 CFR part 493 apply to VA laboratories performing waived, moderate, and high complexity tests.

Subparts B through D address certificates issued by CMS. Subpart B focuses on Certificates of Waiver. Subpart C addresses Registration Certificates, Certificates for PPM procedures, and Certificates of Compliance. PPM procedures are a select group of moderately complex microscopy tests commonly performed by specific health care providers during patient office visits. Tests included in PPM procedures do not meet the criteria for waiver because they are not simple procedures; they require training and specific skills for test performance. Subpart D focuses on Certificates of Accreditation. These subparts establish standards for CMS-issuance of the listed certificates as well as fees that must be remitted to CMS by regulated laboratories in order to apply for and receive certification. We state that all provisions of these subparts would apply to VA laboratories, except that certificates issued by HHS under these subparts are instead issued by VA pursuant to the previously noted interagency agreement between CMS and VA. As certificates are issued by VA rather than CMS, CMS does not require remittance of a fee from laboratories for any certificate issued by VA under these subparts.

Subpart E addresses accreditation by a private, nonprofit accreditation organization or exemption under an approved State laboratory program. Under this subpart, a laboratory may meet individual VA and CLIA program requirements through accreditation by a CMS approved nonprofit accreditation organization (AO). The subpart establishes an application and approval process for an accreditation organization seeking to be granted deeming authority by CMS, as well as a process in which CMS may validate findings of an accreditation organization by reinspection of a laboratory following an inspection by that accreditation organization. CLIA has granted ''deeming authority'' to several accreditation organizations allowing them to accredit laboratories and inspect the laboratories. These accreditation organizations must impose organizations' requirements equal to or more stringent than those contained in 42 CFR part 493 at the condition level. The subpart also establishes standards for CLIA exemptions under an approved State laboratory program. All provisions would apply to VA, to the extent that

this subpart addresses accreditation by a private, nonprofit accreditation organization. However, the provisions related to approved State laboratory program do not apply to VA.

The proposed rule states that VA would use only accreditation agencies with CMS-granted deeming authority to accredit VA laboratories. This is consistent with current, longstanding, VA practice. CMS has an established process for determining whether an accreditation organization should be granted deeming authority, and experience in making that determination. VA has determined that there is no need to duplicate that process and relying on CMS' approval of an accreditation organization ensures that VA would not reach any conclusions on deeming authority that are inconsistent with CMS.

A validation inspection is a quality control measure performed by CMS under Subpart E. It involves CMS reinspection of a laboratory that has recently been inspected by an accreditation organization with deeming authority, to validate that AO's survey findings. We state that validation inspections performed by CMS under subpart E would be performed instead by VA. This is consistent with current practice, and VA's authority under the 1991 Act to provide oversight and enforcement of the requirements set forth in 42 CFR part 493, as oversight and enforcement functions under this subpart as applied to VA laboratories are performed by VA.

General administration provisions related to 42 CFR part 493 are found at Subpart F. This subpart sets forth the methodology for determining the amount of fees for issuing the appropriate certificate, and for determining compliance with the applicable standards of the Public Health Service Act and the Federal validation of accredited laboratories. We state that provisions of Subpart F would not be applicable to VA, as CMS does not collect fees for certification of VA laboratories

Subpart H addresses participation in proficiency testing for laboratories performing nonwaived testing. Nonwaived testing is the term used by CMS to refer collectively to moderate and high complexity testing. We state that all provisions of this subpart would apply to VA, and VA employs scoring criteria under this subpart.

Subpart I focuses on the approval of proficiency testing programs. The proposed rule states that VA would rely on HHS to approve proficiency testing programs. VA would continue to use only HHS approved proficiency testing programs. HHS has an established process for proficiency testing program approval and experience in making that determination. VA has determined that there is no need to duplicate that process and relies on HHS program approvals.

Subpart J addresses facility administration for nonwaived testing, and sets standards for facility construction, transfusion services, and records retention. We state that all provisions of this subpart would apply to VA.

Subpart K focuses on quality systems for nonwaived testing. Under this subpart, each laboratory that performs nonwaived testing must establish and maintain written policies and procedures that implement and monitor a quality system for all phases of the total testing process (that is, preanalytic, analytic, and postanalytic) as well as general laboratory systems. Laboratory quality systems must include a quality assessment component that ensures continuous improvement of the laboratory's performance and services through ongoing monitoring that identifies, evaluates, and resolves problems. The laboratory's quality system must be appropriate for the specialties and subspecialties of testing that the laboratory performs, services it offers, and clients it serves. This subpart establishes requirements for different specialties and subspecialties of laboratory tests and VA would apply all established requirements.

Personnel requirements for performing non-waived testing are addressed in subpart M. All applicable personnel requirements would meet CLIA requirements with the exception of state-specific licensing requirements. Subpart M requires that certain personnel maintain a license in the state in which the laboratory is located. While VA health care providers must be licensed in a state, there is no requirement that the health care provider be licensed in the state where the VA facility at which the provider works is located. See, 38 U.S.C. 7402 (requiring licensure in any state for eligibility to an appointment as VHA health care provider regardless of VHA facility location).

Subpart Q establishes inspection requirements for all CLIA-certified and CLIA-exempt state laboratories. We state that all provisions would apply to VA, except that all enforcement and oversight functions that are assigned to HHS in this subpart are performed by VA.

Subpart R sets forth enforcement procedures, including the policies and procedures CMS uses to enforce CLIA requirements, as well as appeal rights of laboratories on which CMS imposes sanctions. We state that all provisions would apply to VA with the following exceptions. Suspension of the right to Medicare or Medicaid payments as an available sanction against VA laboratories is not applicable because VA laboratories do not participate in these programs. Enforcement and oversight functions would be performed by VA rather than HHS or CMS. VA is responsible for ensuring its laboratories comply with these CLIA requirements, and taking immediate action in the jeopardy to patients. See, Public Law 102–139, section 101; 42 CFR 493.1218. Due process protections afforded by CMS-certified laboratories facing sanctions would not apply to laboratories operating by or under contract with VA. If VA had a substantial testing issue with a non-VA CMS-certified laboratory, VA would notify CMS of that instant. Laboratories subject to this proposed rule are operated by VA or under contract with VA. Finally, we state that VA would not participate in laboratory registry under 42 CFR 493.1850. This is consistent with longstanding VA policy and practice. The laboratory registry operated by CMS under part 493 includes collection of data that is not applicable to VA. Examples include a list of laboratories that have been convicted, under Federal or State laws relating to fraud and abuse, false billing, or kickbacks; all appeals and hearing decisions; a list of laboratories against which CMS has sued under § 493.1846 and the reasons for those actions; and, a list of laboratories that have been excluded from participation in Medicare or Medicaid and the reasons for the exclusion. VA has made VA laboratory information available to the public in accordance with the Freedom of Information Act, 5 U.S.C. 552. VA believes this would provide the public with greater access to information than that found in the private sector.

Subpart T requires HHS to establish a Clinical Laboratory Improvement Advisory Committee (CLIAC) to advise and make recommendations on technical and scientific aspects of the provisions of part 493. The committee is managed by the Centers for Disease Control and Prevention (CDC), provides scientific and technical advice and guidance to HHS. The Committee includes diverse membership across laboratory specialties, professional roles, (laboratory management, technical, physicians, nurses) and practice settings (academic, clinical, public health), and includes a consumer

representative. VA benefits from the diversity, broad knowledge, and expertise of government and non-government participants that make up CLIAC, because any issues addressed that result in changes to the part 493 regulations, then also become a requirement for VA. Since VA complies with part 493 regulations, VA ultimately benefits from revisions for improvement to standards initiated by CLIAC. CLIAC is governed by the Federal Advisory Committee Act (FACA), Public Law 92–463. FACA was enacted in 1972 to establish guidelines on federal advisory committee structures and operations. As VA does not have a similar FACA-level advisory committee, this subpart would not apply to VA.

Effect of Rulemaking

The Code of Federal Regulations, as proposed to be revised by this proposed rulemaking, would represent the exclusive legal authority on this subject. No contrary rules or procedures would be authorized. All VA guidance would be read to conform with this proposed rulemaking if possible or, if not possible, such guidance would be superseded by this rulemaking.

Paperwork Reduction Act

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

Regulatory Flexibility Act

The Secretary hereby certifies that this proposed rule would 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. It would affect only the operations of VA medical facility laboratories. Therefore, pursuant to 5 U.S.C. 605(b), this rulemaking would be exempt from the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604.

Executive Order 12866, 13563 and 13771

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

The economic, interagency, budgetary, legal, and policy implications of this proposed rule have been examined, and it has been determined to be a significant regulatory action under Executive Order 12866, because it raises 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 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.'' This proposed rule is not expected to be subject to the requirements of E.O. 13771 because this proposed rule is expected to result in no more than *de minimis* costs using a post-statutory baseline reflecting current practices within VA.

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 proposed rule would 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 document are 64.008—Veterans Domiciliary Care; 64.011—Veterans Dental Care; 64.029—Purchase Care Program; 64.033—VA Supportive Services for Veteran Families Program; 64.040—VA Inpatient Medicine; 64.041—VA Outpatient Specialty Care; 64.042—VA Inpatient Surgery; 64.043—VA Mental Health Residential; 64.044—VA Home Care; 64.045—VA Outpatient Ancillary Services; 64.046—VA Inpatient Psychiatry; 64.047—VA Primary Care; 64.048—VA Mental Health clinics; 64.049—VA Community Living Center; 64.050—VA Diagnostic Care; 64.054—Research and Development.

List of Subjects in 38 CFR Part 17

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

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Gina S. Farrisee, Deputy Chief of Staff, Department of Veterans Affairs, approved this document on September 19, 2017, for publication.

Dated: October 11, 2018.

Consuela Benjamin,

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

For the reasons set forth in the preamble, VA proposes to amend 38 CFR part 17 as follows:

PART 17—MEDICAL

■ 1. The authority citation for part 17 is amended by adding a sentence immediately following the statutory authority citation for section 17.655 to read as follows:

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

* * * * *

Section 17.3500 is also issued under Public Law 102–139 sec. 101.

■ 2. Add an undesignated center heading and § 17.3500 to read as follows:

Clinical Laboratory Standards

§ 17.3500 VA application of 42 CFR part 493 standards for clinical laboratory operations.

All laboratory testing within VA performed for the diagnosis, prevention, or treatment of any disease or impairment of, or health assessment of, human beings must comply with the listed requirements established by the Department of Health and Human Services (HHS) under the following subparts of 42 CFR part 493 as interpreted, administered, and enforced by VA. VA laboratory testing must meet, at a minimum, requirements established in 42 CFR part 493. These standards must be met for any laboratory service offered within a VA medical facility or outreach clinics, as well as contracted laboratory services performed on site at VA laboratories, outreach clinics, or testing sites. Except as noted below, functions and responsibilities assigned to the Centers for Medicare & Medicaid Services (CMS) in 42 CFR part 493 are assumed by VA. Provisions that are specific to oversight by state licensure programs are not applicable. VA administers the application of the relevant provisions of 42 CFR part 493 to VA laboratories as follows:

(a) *Subpart A—General provisions.* All provisions apply to VA with the following exceptions:

(1) Functions assigned to HHS in this subpart are performed by VA.

(2) While 42 CFR part 493 requires laboratories that perform waived, moderate and high complexity tests to meet the regulations, VA requires VA laboratories meet or exceed the requirements of 42 CFR part 493.

(b) *Subpart B—Certificate of waiver.* All provisions apply to VA, except that:

(1) Certificates issued by HHS under this subpart are instead issued by VA pursuant to an agreement between CMS and VA.

(2) CMS does not require remittance of a fee from laboratories for any certificate issued by the VA under this subpart.

(c) *Subpart C—Registration certificate, certificate for provider-performed microscopy procedures, and certificate of compliance.* All provisions apply to VA, except that:

(1) Certificates issued by HHS under this subpart are instead issued by VA pursuant to an agreement between CMS and VA.

(2) CMS does not require remittance of a fee from laboratories for any certificate issued by VA under this subpart.

(d) *Subpart D—Certificates of accreditation.* All provisions apply to VA, except that:

(1) Certificates issued by HHS under this subpart are instead issued by VA pursuant to an agreement between CMS and VA.

(2) CMS does not require remittance of a fee from laboratories for any certificate issued by VA under this subpart.

(e) *Subpart E—Accreditation by a private, nonprofit accreditation organization or exemption under an approved state laboratory program.* All provisions apply to VA, to the extent that this subpart addresses accreditation by a private, nonprofit accreditation organization. VA applies this subpart as follows:

(1) VA relies on CMS to grant deeming authority for accreditation organizations. VA uses only these accreditation agencies with deeming authority to accredit VA laboratories.

(2) VA uses only CMS approved proficiency testing providers.

(3) Proficiency testing providers release proficiency testing results directly to VA.

(4) VA, rather than CMS, performs validation inspections of VA laboratories.

(5) Oversight and enforcement functions under this subpart are performed by VA.

(f) *Subpart F—General administration.* This subpart sets forth the methodology for determining the amount of the fees for issuing the appropriate certificate, and for determining compliance with the applicable standards of the Public Health Service Act and the Federal validation of accredited laboratories and of CLIA-exempt laboratories. This subpart is inapplicable to VA, as CMS does not collect fees for certification of VA laboratories.

(g) *Subpart H—Participation in proficiency testing for laboratories performing nonwaived testing.* All provisions apply to VA, except that all enforcement and oversight functions related to proficiency testing which are assigned to HHS in this subpart are performed by VA.

(h) *Subpart I—Proficiency testing programs for nonwaived testing.* All provisions apply to VA, and VA employs scoring criteria under this subpart. VA uses only CMS approved proficiency testing providers. Enforcement and oversight functions related to proficiency testing which are assigned to HHS in this subpart are performed by VA.

(i) *Subpart J—Facility administration for nonwaived testing.* VA applies standards established in this subpart.

(j) *Subpart K—Quality system for nonwaived testing.* VA applies standards established in this subpart.

(k) *Subpart M—Personnel for nonwaived testing.* VA applies standards established in this subpart, except that requirements regarding maintaining a license in the state where the laboratory is located are not applicable.

(l) *Subpart Q—Inspection.* VA applies standards established in this subpart, except that all enforcement and oversight functions, which are assigned to HHS in this subpart are performed by VA.

(m) *Subpart R—Enforcement procedures.* VA applies standards established in this subpart, except:

(1) Enforcement and oversight functions which are assigned to HHS in this subpart are performed by VA.

(2) Due process protections afforded by CMS-certified for laboratories facing sanctions are not applicable to laboratories operating under this section.

(3) Suspension of the right to Medicare or Medicaid payments as an available sanction is not applicable. VA does not participate in these programs.

(4) State onsite monitoring and monetary penalties imposed by CMS as an alternate sanction under 42 CFR 493.1806(c) are not applicable.

(5) VA may cease laboratory testing immediately at any site subject to this section upon notification of immediate jeopardy to patients.

(6) VA does not participate in laboratory registry under 42 CFR 493.1850. VA may disclose laboratory information useful in evaluating the performance of laboratories under 5 U.S.C. 552.

(n) *Subpart T—Consultations.* This subpart requires HHS to establish a Clinical Laboratory Improvement Advisory Committee (CLIAC) to advise and make recommendations on technical and scientific aspects of the provisions of part 493. This subpart does not apply to VA.

[FR Doc. 2018–22452 Filed 10–16–18; 8:45 am]

BILLING CODE 8320–01–P

POSTAL SERVICE

39 CFR Part 20

International Mailing Services: Product and Price Changes—CPI

AGENCY: Postal Service™.

ACTION: Proposed rule; request for comments.

SUMMARY: The Postal Service proposes to revise *Mailing Standards of the United States Postal Service,* International Mail Manual (IMM®), to reflect changes in the prices, product features, and classification changes to Mailing Services. These changes would also implement a lower maximum weight limit on First-Class Mail International® (FCMI) large envelopes (flats), to bring them closer to compliance with Universal Postal Union (UPU) standards.

DATES: We must receive your comments on or before November 16, 2018.

ADDRESSES: Mail or deliver comments to the manager, Product Classification, U.S. Postal Service®, 475 L'Enfant Plaza SW, RM 4446, Washington, DC 20260–5015. You may inspect and photocopy all written comments, by appointment only, at USPS® Headquarters Library, 475 L'Enfant Plaza SW, 11th Floor North, Washington DC 20260, between the hours of 9 a.m. and 4 p.m., Monday through Friday, by calling 202–268–2906 in advance. Send email comments, including the name and address of the commenter, to: *ProductClassification@usps.gov,* with a subject line of ''January 2019 International Mailing Services Price Change—CPI.'' Faxed comments are not accepted.

FOR FURTHER INFORMATION CONTACT: Paula Rabkin at 202–268–2537.

SUPPLEMENTARY INFORMATION:

International Price and Service Adjustments

On October 10, 2018, the Postal Service filed a notice with the Postal Regulatory Commission in Docket No. R2019–1 of mailing services price adjustments, effective on January 27, 2019. The Postal Service proposes to revise Notice 123, *Price List,* available on Postal Explorer® at *https://pe.usps.com,* to reflect these new price changes. Proposed prices are or will be available under Docket Number R2019–1 on the Postal Regulatory Commission's website at *www.prc.gov.*

Over the course of time, country names have changed due to a variety of political or cultural reasons. In collaboration with International Postal Affairs and requests made through the UPU, the Postal Service is updating country names throughout mailing standards, changing Great Britain and Northern Ireland to United Kingdom of Great Britain and Northern Ireland and changing Swaziland to Eswatini.

This proposed rule also describes the price and classification changes and the corresponding mailing standards changes for the following market dominant international services:

- First-Class Mail International (FCMI) service
- International extra services and fees.

First-Class Mail International

We propose no increase in prices for single-piece FCMI letters, postcards, and flats. The price for a single-piece 1-ounce letter remains $1.15. The FCMI letter nonmachinable surcharge remains $0.21.

On October 10, 2018, the Postal Service filed a notice with the Postal Regulatory Commission in Docket No. MC2019–3. In this filing we propose a change in the maximum weight limit for First-Class Mail International (FCMI) large envelopes (flats) to 15.994 ounces, in lieu of the current 64 ounce limit. This change will more closely align the Postal Service's definition of FCMI large envelopes (flats) with the Universal Postal Union Convention's definition, which allows a maximum weight of 500 grams (17.6 ounces) for flat-shaped letter post items.

A mailpiece weighing 16 ounces or more that is presented as an FCM large envelope (flat) will be charged the applicable First-Class Package International Service® price. Alternatively, the mailer could elect to use another class of mail such as Priority Mail Express International® or Priority Mail International®, if the mailpiece meets the requirements for those mail classes.

International Extra Services and Fees

The Postal Service proposes the following increase in fees for certain market dominant international extra services including:

- Certificate of Mailing.
- Registered Mail™.
- Return Receipt.
- Customs Clearance and Delivery Fee.
- International Business Reply™ Mail Service.

CERTIFICATE OF MAILING

	Fee
Individual pieces:	
Individual article (PS Form 3817)	$1.45
Duplicate copy of PS Form 3817 or PS Form 3665 (per page)	1.45
Firm mailing sheet (PS Form 3665), per piece (minimum 3) First-Class Mail International only	0.41
Bulk quantities:	
For first 1,000 pieces (or fraction thereof)	8.55
Each additional 1,000 pieces (or fraction thereof)	1.07
Duplicate copy of PS Form 3606	1.45

Registered Mail
Fee: $16.00.
Return Receipt
Fee: $4.10.
Customs Clearance and Delivery
Fee: Per piece $6.40.
International Business Reply Service
Fee: Cards $1.45; Envelopes up to 2 ounces $1.95.

Following the completion of Docket No. R2019–1, the Postal Service will adjust the prices for products and services covered by the IMM. These prices will be listed on Postal Explorer at *https://pe.usps.com.*

Accordingly, although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comment on the following proposed changes to *Mailing Standards of the United States Postal Service,* International Mail Manual (IMM®), which is incorporated by reference in the *Code of Federal Regulations* in accordance with 39 CFR 20.1, and to associated changes to Notice 123, *Price List.*

List of Subjects in 39 CFR Part 20

Foreign relations, International postal services.

Accordingly, 39 CFR part 20 is proposed to be amended as follows:

PART 20—[AMENDED]

■ 1. The authority citation for 39 CFR part 20 continues to read as follows:

Authority: 5 U.S.C. 552(a); 13 U.S.C. 301–307; 18 U.S.C. 1692–1737; 39 U.S.C. 101, 401, 403, 404, 407, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3622, 3626, 3632, 3633, and 5001.

■ 2. Revise the following sections of *Mailing Standards of the United States Postal Service,* International Mail Manual (IMM), as follows:

***Mailing Standards of the United States Postal Service,* International Mail Manual (IMM)**

* * * * *

[Throughout the IMM, change all references to ''Great Britain and Northern Ireland'' to ''United Kingdom of Great Britain and Northern Ireland'' and place them in the correct alphabetical order in lists]

[Throughout the IMM, change all references to ''Swaziland'' to ''Eswatini'' and place them in the correct alphabetical order in lists]

1 International Mail Services

* * * * *

120 Preparation for Mailing

* * * * *

122 Addressing

122.1 Destination Address

* * * * *

[In item j., revise the country name in the first addressing example to read as follows:]

MR THOMAS CLARK
117 RUSSELL DRIVE
LONDON W1P 6HQ
UNITED KINGDOM

* * * * *

123 Customs Forms and Online Shipping Labels

* * * * *

123.6 Required Usage

123.61 Conditions

* * * * *

Exhibit 123.61

Customs Declaration Form Usage by Mail Category

* * * * *

[In the First-Class Mail International section, in the ''Comment'' column, add a second paragraph listing weight limits for FCMI large envelopes (flats) and IPA and ISAL large envelopes (flats), to read as follows:]

Type of item	Declared value, weight, or physical characteristic	Required PS form	Comment (if applicable)
*	*	*	* * * *
First-Class Mail International Letters and Large Envelopes (Flats), as well as International Priority Airmail (IPA) Letters and Large Envelopes (Flats) and International Surface Air Lift (ISAL) Letters and Large Envelopes (Flats)			
All letter-size and flat-size items, as defined in 241.2, containing only nondutiable documents.	Under 16 ounces 16 ounces or more	None 2976	See 123.63 for additional information concerning ''documents.'' Items containing merchandise must be mailed using Global Express Guaranteed service, Priority Mail Express International service, Priority Mail International service, or First-Class Package International Service; commercial mailers may also use IPA packages (small packets) and ISAL packages (small packets) to mail merchandise. Certain documents controlled by export regulatory agencies may also require customs documentation. See 510–590 and Publication 699 for additional information. FCMI large envelopes (flats) are limited to under 16 ounces; IPA flats and ISAL large envelopes (flats) are limited to 17.6 ounces.
*	*	*	* * * *

* * * * *

140 International Mail Categories

141 Definitions

* * * * *

141.5 First-Class Mail International

[Revise the first sentence to read as follows (changing the weight limit for First-Class Mail International):] First-Class Mail International is a generic term for mailpieces that are postcard-size, letter-size, or flat-size and weigh less than 16 ounces. * * *

* * * * *

2 Conditions for Mailing

* * * * *

240 First-Class Mail International

241 Description and Physical Characteristics

* * * * *

241.2 Physical Characteristics

* * * * *

241.23 Physical Standards—Large Envelopes (Flats)

241.231 Weight Limit

[Revise the text to read as follows, changing the weight limit for First-Class Mail International large envelopes (flats):]

The weight limit for a First-Class Mail International large envelope (flat) is 15.994 ounces.

* * * * *

243 Prices and Postage Payment Methods

* * * * *

243.3 Permit Imprint—General

[Revise the text to read as follows (keeping only the first three sentences and eliminating the rest of the text having information about FCMI items requiring customs forms):]

Mailers may use a permit imprint for mailing identical- or nonidentical-weight First-Class Mail International items. Any of the First-Class Mail International permit imprint formats shown in Exhibit 152.64 is acceptable. Permit imprints must not denote ''bulk mail,'' ''nonprofit,'' or other domestic or special mail markings.

* * * * *

245 Mail Entry and Deposit

245.1 Place of Mailing

245.11 Items Eligible for Deposit or Pickup

[Revise the first sentence and the Note to read as follows (eliminating information about FCMI items requiring customs forms):]

First-Class Mail International items may be deposited through any of the following methods, provided postage is paid by a means other than the use of postage stamps: * * *

Note: First-Class Mail International letter-size and flat-size items weighing 13 ounces or less and bearing only postage stamps may also be deposited through the aforementioned methods.

* * * * *

3 Extra Services

* * * * *

370 International Money Transfer Service

* * * * *

372 Sure Money (Dinero Seguro)

* * * * *

372.3 Fees

* * * * *

Exhibit 372.3

Fees for Sure Money Service

[Insert revised fees for Sure Money to read as follows:]

Transaction type	Amount not over	Fee
Sales	$750	$13.95
	1,500	19.95
Refunds	1,500	29.95
Change of Payee	1,500	15.50

* * * * *

New Prices Will Be Listed in the Updated Notice 123, *Price List.*

Ruth Stevenson,

Attorney, Federal Compliance.

[FR Doc. 2018–22473 Filed 10–16–18; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

39 CFR Part 111

New Mailing Standards for Domestic Mailing Services Products

AGENCY: Postal Service™.

ACTION: Proposed rule.

SUMMARY: On October 10, 2018, the Postal Service filed a notice of mailing services price adjustments with the Postal Regulatory Commission (PRC), effective January 27, 2019. This proposed rule contains the revisions to *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM®) that we would adopt to implement related regulatory changes coincident with the price adjustments.

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

ADDRESSES: Mail or deliver written comments to the manager, Product Classification, U.S. Postal Service®, 475 L'Enfant Plaza SW, Room 4446, Washington, DC 20260–5015. You may inspect and photocopy all written comments, by appointment only, at USPS® Headquarters Library, 475 L'Enfant Plaza SW, 11th Floor North, Washington, DC, 20260. These records are available for review Monday through Friday, between the hours of 9 a.m. and 4 p.m., by calling 202–268–2906. Send email comments, including the name and address of the commenter, to *ProductClassification@usps.gov,* with a subject line of ''January 2019 Domestic Mailing Services Proposal.'' Faxed comments are not accepted.

FOR FURTHER INFORMATION CONTACT: Jacqueline Erwin at 202–268–2158, or Alexander Petr at 202–268–4116.

SUPPLEMENTARY INFORMATION: Proposed prices will be available under Docket No. R2019–1 on the PRC website at *www.prc.gov.*

The proposed rule includes changes to prices, mail classification updates, product simplification efforts, and a few minor revisions to the DMM.

Periodicals Address Corrections for Alternate Addressed Nonsubscriber-Nonrequester Copies

Currently, Periodicals publishers who mail alternate addressed nonsubscriber-nonrequester copies receive and pay for manual address corrections or Address Correction Service (ACS™). Undeliverable-as-addressed Periodicals do not receive forwarding service and are provided address-related notices via PS Form 3579, *Notice of Undeliverable Periodical,* or electronic ACS.

The Postal Service is proposing to introduce a specifically tailored Periodicals Service Type ID (STID) for publishers to include in the Intelligent Mail® barcode, (IMb®) along with authorized alternative addressing formats. If adopted, publishers will no longer receive address-related notices via PS Form 3579 or electronic ACS, if the address is vacant or not deliverable. Publications processed by the Postal Automated Redirection System, Computerized Forwarding System, or Remote Forwarding System will be discarded without notice to the publisher.

Correcting BRM/QBRM Postage Anomaly

Currently, postage for basic and high volume Business Reply Mail (BRM) is based on the applicable retail ''metered'' letter price. This has resulted in basic and high volume BRM customers paying lower postage prices than QBRM customers.

The Postal Service is proposing to correct the anomaly by applying the retail ''stamped'' letter price to basic and high volume BRM. To offset the postage increase, basic and high volume BRM per piece fees are proposed to decrease from the current prices.

Picture Permit Imprint Indicia

Currently, a picture permit imprint indicia may be used to pay postage and extra service fees on commercial mailings of full-service automation First-Class Mail® or USPS Marketing Mail® postcards, letters, or flats. Mailpieces bearing a picture permit imprint indicia must be prepared as IMb full-service automation mailings.

The Postal Service is proposing to eliminate the Full-Service requirement on commercial mailings of First-Class Mail or USPS Marketing Mail postcards, letters, or flats using picture permit imprint indicia.

Small Parcel Forwarding Fee

Currently, shippers do not have an ACS option for receiving forwarding of small parcels.

The Postal Service is proposing to add a ''small parcel'' forwarding fee for USPS Marketing Mail parcels, similar to the USPS Marketing Mail letter-size and flat-size pieces forwarding fees. The forwarding fee would only apply for pieces endorsed ''Change Service Requested'' under ''Option 2'' (ACS only), that are forwarded due to an active change-of-address. All other undeliverable pieces will be discarded and an electronic ACS notice is provided in both cases.

Overweight Item Charge

As discussed in the August 29, 2018, **Federal Register** final rule (83 FR 43985–43986), the Postal Service is introducing a charge for items identified in the postal network that exceed the 70 pound weight limit for Postal Service products, and are therefore nonmailable. Overweight items identified in the postal network will be assessed a $100 charge payable before release of the item, unless the item is picked up at the same facility where it was entered.

Although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comments on the following proposed revisions to *Mailing Standards of the United States Postal Service,* Domestic Mail Manual

(DMM), incorporated by reference in the Code of Federal Regulations. See 39 CFR 111.1.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

Accordingly, 39 CFR part 111 is proposed to be amended as follows:

PART 111—[AMENDED]

■ 1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 13 U.S.C. 301–307; 18 U.S.C. 1692–1737; 39 U.S.C. 101, 401, 403, 404, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3622, 3626, 3632, 3633, and 5001.

■ 2. Revise the following sections of *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM), as follows:

Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM)

* * * * *

500 Additional Mailing Services

* * * * *

505 Return Services

1.0 Business Reply Mail (BRM)

1.1 BRM Postage and Fees

1.1.1 Basic BRM

[Revise the first sentence of the introductory text in 1.1.1 to read as follows:]

For basic BRM, a permit holder is required to pay an annual permit fee as provided under 1.2 and a per piece fee under 1.1.7 in addition to the applicable Retail First-Class Mail (stamped letters), First-Class Package Service — Retail, or Priority Mail postage for each returned piece.* * *

* * * * *

1.1.3 Basic Qualified BRM (QBRM)

[Revise the first sentence of the introductory text in 1.1.3 to read as follows:]

For basic qualified BRM, a permit holder is required to pay an account maintenance fee under 1.1.8, and a per piece fee under 1.1.7 in addition to the applicable retail letter or card First-Class Mail (stamped letters) postage for each returned piece.* * *

* * * * *

507 Mailer Services

1.0 Treatment of Mail

* * * * *

1.5 Treatment for Ancillary Services by Class of Mail

* * * * *

1.5.2 Periodicals

Undeliverable-as-addressed (UAA) Periodicals publications (including publications pending Periodicals authorization) are treated as described in Exhibit 1.5.2, with these additional conditions:

* * * * *

[Revise the text in items 1.5.2b and 1.5.2c to read as follows:]

b. Publications with an alternative addressing format under 602.3.0 are delivered to the address when possible. Forwarding service is not provided for such mail.

c. Address correction service is mandatory for all Periodicals publications, except when publishers use alternative addressing and an IMb with proper STID. An address correction service fee must be paid for each notice issued.

* * * * *

1.5.3 USPS Marketing Mail and Parcel Select Lightweight

* * * * *

Exhibit 1.5.3 Treatment of Undeliverable USPS Marketing Mail and Parcel Select Lightweight

Mailer Endorsement USPS Treatment of UAA Pieces

* * * * *

''**Change Service Requested**'' **1, 4**

* * * * *

[Revise the parenthetical for ''Option 2'' to read as follows:]

(Available via ACS only; for USPS Marketing Mail (all shapes) and Parcel Select Lightweight)

* * * * *

If change-of-address order on file:

[Revise the text under ''If change-of-address order on file:'' for ''Months 1 through 12'' to read as follows:]

Months 1 through 12: Piece forwarded; postage due charged to the mailer at applicable Forwarding Fee based on the piece shape for USPS Marketing Mail or Parcel Select Lightweight; separate notice of new address provided (electronic ACS fee charged).

* * * * *

600 Basic Standards For All Mailing Services

* * * * *

602 Addressing

* * * * *

3.0 Use of Alternative Addressing

3.1 General Information

* * * * *

3.1.3 Treatment

[Revise the third sentence of the introductory text in 3.1.3 to read as follows:]

* * * Periodicals publishers are notified when a mailpiece with an occupant or exceptional address format is undeliverable for solely address-related reasons, (except publishers using an IMb with proper STID on non-subscriber or non-requester copies under 207.7.0.* * *

* * * * *

604 Postage Payment Methods and Refunds

* * * * *

5.0 Permit Imprint (Indicia)

* * * * *

5.4 Picture Permit Imprint Indicia

5.4.1 Description

[Revise the third sentence of 5.4.1 to read as follows:]

* * * Picture permit imprints may be used to pay postage and extra service fees on commercial mailings of First-Class Mail or USPS Marketing Mail postcards, letters, or flats.

* * * * *

5.4.5 Picture Permit Imprint Indicia Format

As options to the basic format under 5.3.11and if all other applicable standards in 5.0 are met, permit imprint indicia may be prepared in picture permit imprint format subject to these conditions:

* * * * *

[Delete 5.4.5f in its entirety and renumber current 5.4.5g through 5.4.5k as new 5.4.5f through 5.4.5j.]

* * * * *

We will publish an appropriate amendment to 39 CFR part 111 to reflect these changes.

Ruth B. Stevenson

Attorney, Federal Compliance.

[FR Doc. 2018–22475 Filed 10–16–18; 8:45 am]

BILLING CODE 7710–12–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Parts 401 and 404

[USCG–2018–0665]

RIN 1625–AC49

Great Lakes Pilotage Rates—2019 Annual Review and Revisions to Methodology

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: In accordance with the Great Lakes Pilotage Act of 1960, the Coast Guard is proposing new base pilotage rates and surcharges for the 2019 shipping season. This rule would adjust the pilotage rates to account for anticipated traffic, an increase in the number of pilots, anticipated inflation, and surcharges for applicant pilots. The result is an increase in pilotage rates, due to adjustment for inflation and the addition of two pilots.

DATES: Comments and related material must be received by the Coast Guard on or before November 16, 2018.

ADDRESSES: You may submit comments identified by docket number USCG–2018–0665 using the Federal eRulemaking Portal at *https://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: For information about this document, call or email Mr. Brian Rogers, Commandant (CG–WWM–2), Coast Guard; telephone 202–372–1535, email *Brian.Rogers@uscg.mil,* or fax 202–372–1914.

SUPPLEMENTARY INFORMATION:

Table of Contents for Preamble

I. Public Participation and Request for Comments

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

We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule for alternate instructions. Documents mentioned in this proposed rule, and all public comments, are available in our online docket at *https://www.regulations.gov,* and can be viewed by following that website's instructions. Additionally, if you visit the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

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

We do not plan to hold a public meeting, but we will consider doing so if public comments indicate a meeting would be helpful. We would issue a separate **Federal Register** notice to announce the date, time, and location of such a meeting.

II. Abbreviations

APA American Pilots Association
BLS Bureau of Labor Statistics
CAD Canadian dollars
CFR Code of Federal Regulations
CPA Certified public accountant
DHS Department of Homeland Security
FOMC Federal Open Market Committee
FR Federal Register
GLPA Great Lakes Pilotage Authority (Canadian)
GLPAC Great Lakes Pilotage Advisory Committee
GLPMS Great Lakes Pilotage Management System
NAICS North American Industry Classification System
NPRM Notice of proposed rulemaking
NTSB National Transportation Safety Board
OMB Office of Management and Budget
PCE Personal Consumption Expenditures
RA Regulatory analysis
SBA Small Business Administration
§ Section symbol
SLSMC Saint Lawrence Seaway Management Corporation
U.S.C. United States Code
USD United States dollars

III. Executive Summary

Pursuant to the Great Lakes Pilotage Act of 1960 (''the Act''),[1] the Coast Guard regulates pilotage for oceangoing vessels on the Great Lakes—including setting the rates for pilotage services and adjusting them on an annual basis. The rates, which currently range from $271 to $653 per pilot hour (depending on the specific area where pilotage service is provided), are paid by shippers to pilot associations. The three pilot associations, which are the exclusive U.S. source of registered pilots on the Great Lakes, use this revenue to cover operating expenses, maintain infrastructure, compensate working pilots, and train new pilots. We use a ratemaking methodology that we have developed since 2016 in accordance with our statutory requirements and regulations. Our ratemaking methodology calculates the revenue needed for each pilotage association (including operating expenses, compensation, and infrastructure needs), and then divides that amount by the expected shipping traffic over the course of the year to produce an hourly rate. This process is currently effected through a 10-step methodology and supplemented with surcharges, which are explained in detail in this notice of proposed rulemaking (NPRM).

In this NPRM, we are proposing new pilotage rates for 2019 based on the existing methodology. As part of our annual review, we are proposing in this NPRM new rates for the 2019 shipping season. Based on the ratemaking model discussed in this NPRM, we are proposing the rates shown in table 1. The result is an increase in rates, due to

[1] 46 U.S.C. Chapter 93; Public Law 86–555, 74 Stat. 259, as amended.

adjustment for inflation and the addition of two pilots.

TABLE 1—CURRENT AND PROPOSED PILOTAGE RATES ON THE GREAT LAKES

Area	Name	Final 2018 pilotage rate	Proposed 2019 pilotage rate
District One: Designated	St. Lawrence River	$653	$698
District One: Undesignated	Lake Ontario	435	492
District Two: Undesignated	Lake Erie	497	530
District Two: Designated	Navigable waters from Southeast Shoal to Port Huron, MI.	593	632
District Three: Undesignated	Lakes Huron, Michigan, and Superior	271	304
District Three: Designated	St. Mary's River	600	602

This proposed rule is not economically significant under Executive Order 12866. This proposed rule would impact 51 U.S. Great Lakes pilots, 3 pilot associations, and the owners and operators of an average of 256 oceangoing vessels that transit the Great Lakes annually. The estimated overall annual regulatory economic impact of this rate change is a net increase of $2,066,143 in payments made by shippers from the 2018 shipping season. Because we must review, and, if necessary, adjust rates each year, we analyze these as single year costs and do not annualize them over 10 years. This rule does not affect the Coast Guard's budget or increase Federal spending. Section VIII of this preamble provides the regulatory impact analyses of this proposed rule.

IV. Basis and Purpose

The legal basis of this rulemaking is the Great Lakes Pilotage Act of 1960 (''the Act''),[2] which requires U.S. vessels operating ''on register'' and foreign vessels to use U.S. or Canadian registered pilots while transiting the U.S. waters of the St. Lawrence Seaway and the Great Lakes system.[3] For the U.S. registered Great Lakes pilots (''pilots''), the Act requires the Secretary to ''prescribe by regulation rates and charges for pilotage services, giving consideration to the public interest and the costs of providing the services.'' [4] The Act requires that rates be established or reviewed and adjusted each year, not later than March 1. The Act requires that base rates be established by a full ratemaking at least once every 5 years, and in years when base rates are not established, they must be reviewed and, if necessary, adjusted. The Secretary's duties and authority under the Act have been delegated to the Coast Guard.[5]

The purpose of this NPRM is to propose new pilotage rates and surcharges for the 2019 shipping season. The Coast Guard believes that the new rates would promote pilot retention, ensure safe, efficient, and reliable pilotage services on the Great Lakes, and provide adequate funds to upgrade and maintain infrastructure.

V. Background

Pursuant to the Great Lakes Pilotage Act of 1960, the Coast Guard, in conjunction with the Canadian Great Lakes Pilotage Authority, regulates shipping practices and rates on the Great Lakes. Under the Coast Guard regulations, all vessels engaged in foreign trade (often referred to as ''salties'') are required to engage U.S. or Canadian pilots during their transit through the regulated waters.[6] United States and Canadian ''lakers,'' which account for most commercial shipping on the Great Lakes, are not affected.[7] Generally, vessels are assigned a U.S. or Canadian pilot depending on the order in which they transit a particular area of the Great Lakes and do not choose the pilot they receive. If a vessel is assigned a U.S. pilot, that pilot will be assigned by the pilotage association responsible for the particular district in which the vessel is operating, and the vessel operator will pay the pilotage association for the pilotage services.

The U.S. waters of the Great Lakes and the St. Lawrence Seaway are divided into three pilotage districts. Pilotage in each district is provided by an association certified by the Coast Guard's Director of the Great Lakes Pilotage (''the Director'') to operate a pilotage pool. The Saint Lawrence Seaway Pilotage Association provides pilotage services in District One, which includes all U.S. waters of the St. Lawrence River and Lake Ontario. The Lakes Pilotage Association provides pilotage services in District Two, which includes all U.S. waters of Lake Erie, the Detroit River, Lake St. Clair, and the St. Clair River. Finally, the Western Great Lakes Pilotage Association provides pilotage services in District Three, which includes all U.S. waters of the St. Mary's River; Sault Ste. Marie Locks; and Lakes Huron, Michigan, and Superior.

Each pilotage district is further divided into ''designated'' and ''undesignated'' areas. Designated areas are classified as such by Presidential Proclamation [8] to be waters in which pilots must, at all times, be fully engaged in the navigation of vessels in their charge. Undesignated areas, on the other hand, are open bodies of water, and thus are not subject to the same pilotage requirements. While working in those undesignated areas, pilots must ''be on board and available to direct the navigation of the vessel at the discretion of and subject to the customary authority of the master.'' [9] For pilotage purposes, rates in designated areas are significantly higher than those in undesignated areas for these reasons.

[2] 46 U.S.C. Chapter 93; Public Law 86–555, 74 Stat. 259, as amended.

[3] 46 U.S.C. 9302(a)(1).

[4] 46 U.S.C. 9303(f).

[5] Department of Homeland Security (DHS) Delegation No. 0170.1, para. II (92.f).

[6] See 46 CFR part 401.

[7] 46 U.S.C. 9302(f). A ''laker'' is a commercial cargo vessel especially designed for and generally limited to use on the Great Lakes.

[8] Presidential Proclamation 3385, *Designation of restricted waters under the Great Lakes Pilotage Act of 1960,* December 22, 1960.

[9] 46 U.S.C. 9302(a)(1)(B).

TABLE 2—AREAS OF THE GREAT LAKES AND SAINT LAWRENCE SEAWAY

District	Pilotage association	Designation	Area No.[10]	Area name[11]
One	Saint Lawrence Seaway Pilotage Association.	Designated	1	St. Lawrence River.
		Undesignated	2	Lake Ontario.
Two	Lake Pilotage Association	Designated	5	Navigable waters from Southeast Shoal to Port Huron, MI.
		Undesignated	4	Lake Erie.
Three	Western Great Lakes Pilotage Association.	Designated	7	St. Mary's River.
		Undesignated	6	Lakes Huron and Michigan.
		Undesignated	8	Lake Superior.

Each pilot association is an independent business and is the sole provider of pilotage services in the district in which it operates. Each pilot association is responsible for funding its own operating expenses, maintaining infrastructure, acquiring and implementing technological advances, training personnel/partners and pilot compensation. We developed a 10-step ratemaking methodology to derive a pilotage rate that covers these expenses based on the estimated amount of traffic. In short, the methodology is designed to measure how much revenue each pilotage association will need to cover expenses and provide competitive compensation to working pilots. The Coast Guard then divides that amount by the historical average traffic transiting through the district. We recognize that in years where traffic is above average, pilot associations will take in more revenue than projected, while in years where traffic is below average, they will take in less. We believe that over the long term, however, this system ensures that infrastructure will be maintained and that pilots will receive adequate compensation and work a reasonable number of hours with adequate rest between assignments to ensure retention of highly-trained personnel.

Over the past 3 years, the Coast Guard has made adjustments to the Great Lakes pilotage ratemaking methodology. In 2016, we made significant changes to the methodology, moving to an hourly billing rate for pilotage services and changing the compensation benchmark to a more transparent model. In 2017, we added additional steps to the ratemaking methodology, including new steps that accurately account for the additional revenue produced by the application of weighting factors (discussed in detail in Steps 7 through 9 of this preamble). In 2018, we revised the methodology by which we develop the compensation benchmark, based upon the rate of U.S. mariners, rather than Canadian registered pilots. The 2018 methodology, which was finalized in the June 5, 2018 final rule (83 FR 26162) and is the current methodology, is designed to accurately capture all of the costs and revenues associated with Great Lakes pilotage requirements and produce an hourly rate that adequately and accurately compensates pilots and covers expenses. The current methodology is summarized in the section below.

Summary of Ratemaking Methodology

As stated above, the ratemaking methodology, currently outlined in 46 CFR 404.101 through 404.110, consists of 10 steps that are designed to account for the revenues needed and total traffic expected in each district. The result is an hourly rate (determined separately for each of the areas administered by the Coast Guard).

In Step 1, ''Recognize previous operating expenses,'' (§ 404.101) the Director reviews audited operating expenses from each of the three pilotage associations. This number forms the baseline amount that each association is budgeted. Because of the time delay between when the association submits raw numbers and the Coast Guard receives audited numbers, this number is 3 years behind the projected year of expenses. So in calculating the 2019 rates in this proposal, we are beginning with the audited expenses from fiscal year 2016.

While each pilotage association operates in an entire district, the Coast Guard tries to determine costs by area. Thus, with regard to operating expenses, we allocate certain operating expenses to undesignated areas, and certain expenses to designated areas. In some cases (*e.g.,* insurance for applicant pilots who operate in undesignated areas only), we can allocate the costs based on where they are actually accrued. In other situations (*e.g.,* general legal expenses), expenses are distributed between designated and undesignated waters on a *pro rata* basis, based upon the proportion of income forecasted from the respective portions of the district.

In Step 2, ''Project operating expenses, adjusting for inflation or deflation,'' (§ 404.102) the Director develops the 2018 projected operating expenses. To do this, we apply inflation adjustors for 3 years to the operating expense baseline received in Step 1. The inflation factors used are from the Bureau of Labor Statistics' Consumer Price Index for the Midwest Region, or if not available, the Federal Open Market Committee (FOMC) median economic projections for Personal Consumption Expenditures (PCE) inflation. This step produces the total operating expenses for each area and district.

In Step 3, ''Estimate number of working pilots,'' (§ 404.103) the Director calculates how many pilots are needed for each district. To do this, we employ a ''staffing model,'' described in § 401.220, paragraphs (a)(1) through (a)(3), to estimate how many pilots would be needed to handle shipping during the beginning and close of the season. This number is helpful in providing guidance to the Director of the Coast Guard Great Lakes Pilotage Office in approving an appropriate number of credentials for pilots.

For the purpose of the ratemaking calculation, we determine the number of working pilots provided by the pilotage associations (see § 404.103) which is what we use to determine how many pilots need to be compensated via the pilotage fees collected.

In Step 4, ''Determine target pilot compensation benchmark,'' (§ 404.104) the Director determines the revenue needed for pilot compensation in each area and district. This step contains two processes. In the first process, we calculate the total compensation for each pilot using a ''compensation benchmark.'' Next, we multiply the individual pilot compensation by the number of working pilots for each area and district (from Step 3), producing a figure for total pilot compensation.

[10] Area 3 is the Welland Canal, which is serviced exclusively by the Canadian GLPA and, accordingly, is not included in the United States pilotage rate structure.

[11] The areas are listed by name in the Code of Federal Regulations, see 46 CFR 401.405.

Because pilots are paid by the associations, but the costs of pilotage is divided up by area for accounting purposes, we assign a certain number of pilots for the designated areas and a certain number of pilots for the undesignated areas for purposes of determining the revenues needed for each area. To make the determination of how many pilots to assign, we use the staffing model designed to determine the total number of pilots, described in Step 3, above.

In the second process of Step 4, set forth in § 404.104(c), the Director determines the total compensation figure for each District. To do this, the Director multiplies the compensation benchmark by the number of working pilots for each area and district (from Step 3), producing a figure for total pilot compensation.

In Step 5, ''Project working capital fund,'' (§ 404.105) the Director calculates a value that is added to pay for needed capital improvements. This value is calculated by adding the total operating expenses (derived in Step 2) and the total pilot compensation (derived in Step 4), and multiply that figure by the preceding year's average annual rate of return for new issues of high-grade corporate securities. This figure constitutes the ''working capital fund'' for each area and district.

In Step 6, ''Project needed revenue,'' (§ 404.106) the Director simply adds up the totals produced by the preceding steps. For each area and district, we add the projected operating expense (from Step 2), the total pilot compensation (from Step 4), and the working capital fund contribution (from Step 5). The total figure, calculated separately for each area and district, is the ''revenue needed.''

In Step 7, ''Calculate initial base rates,'' (§ 404.107) the Director calculates an hourly pilotage rate to cover the revenue needed calculated in Step 6. This step consists of first calculating the 10-year traffic average for each area. Next, we divide the revenue needed in each area (calculated in Step 6) by the 10-year traffic average to produce an initial base rate.

An additional element, the ''weighting factor,'' is required under § 401.400. Pursuant to that section, ships pay a multiple of the ''base rate'' as calculated in Step 7 by a number ranging from 1.0 (for the smallest ships, or ''Class I'' vessels) to 1.45 (for the largest ships, or ''Class IV'' vessels). As this significantly increases the revenue collected, we need to account for the added revenue produced by the weighting factors to ensure that shippers are not overpaying for pilotage services.

In Step 8, ''Calculate average weighting factors by area,'' (§ 404.108) the Director calculates how much extra revenue, as a percentage of total revenue, has historically been produced by the weighting factors in each area. We do this by using a historical average of applied weighting factors for each year since 2014 (the first year the current weighting factors were applied).

In Step 9, ''Calculate revised base rates,'' (§ 404.109) the Director calculates how much extra revenue, as a percentage of total revenue, has historically been produced by the weighting factors in each area. We do this by using a historical average of applied weighting factors for each year since 2014 (the first year the current weighting factors were applied).

In Step 10, ''Review and finalize rates,'' (§ 404.110) often referred to informally as ''director's discretion,'' the Director reviews the revised base rates (from Step 9) to ensure that they meet the goals set forth in the Act and 46 CFR 404.1(a), which include promoting efficient, safe, and reliable pilotage service on the Great Lakes; generating sufficient revenue for each pilotage association to reimburse necessary and reasonable operating expenses; compensating pilots fairly, who are trained and rested; and providing appropriate profit for improvements. Because it is our goal to be as transparent as possible in our ratemaking procedure, we use this step sparingly to adjust rates.

Finally, after the base rates are set, § 401.401 permits the Coast Guard to apply surcharges. Currently, we use surcharges to pay for the training of new pilots, rather than incorporating training costs into the overall ''revenue needed'' that is used in the calculation of the base rates. In recent years, we have allocated $150,000 per applicant pilot to be collected via surcharges. This amount is calculated as a percentage of total revenue for each district, and that percentage is applied to each bill. When the total amount of the surcharge has been collected, the pilot associations are prohibited from collecting further surcharges. Thus, in years where traffic is heavier than expected, shippers early in the season could pay more than shippers employing pilots later in the season, after the surcharge cap has been met.

VI. Discussion of Proposed Methodological and Other Changes

For 2019, the Coast Guard is not proposing any new methodological changes to the ratemaking model. We believe that the revised methodology laid out in the 2018 Annual Review will produce rates for the 2019 shipping season that will ensure safe and reliable pilotage services are available on the Great Lakes.

In previous years, several commenters have raised issues regarding the working capital fund. While the Coast Guard is not proposing specific changes in this NPRM (for example, in the text of part 401), we note that we are working with stakeholders to develop the necessary policy framework. These include measures relating to financial segregation of working capital fund, proper disbursement, and accounting, to ensure these monies are appropriately accounted for and utilized. This issue was an agenda item for the September 2018 Great Lakes Pilotage Advisory Committee Meeting. We also invite interested parties to provide their input and recommendations on the issue. We seek to ensure that the working capital fund is an appropriate vehicle to pay for needed capital expenses.

We are also proposing to correct a typographical error in the regulatory text of section 104. Currently, § 404.104(c) contains a reference to § 404.103(d), which before the publication of the 2018 final rule (83 FR 26162), contained the calculation for the estimated number of pilots. The 2018 final rule amended section 103 so that the calculation is now located in § 404.103, not 404.103(d), and so we propose to correct the reference in section 104 to point to the correct section.

VII. Discussion of Proposed Rate Adjustments

In this NPRM, based on the current methodology described in the previous section, we are proposing new pilotage rates for 2019. This section discusses the proposed rate changes using the ratemaking steps provided in 46 CFR part 404. We will detail each step of the ratemaking procedure to show how we arrived at the proposed new rates.

We propose to conduct the 2019 ratemaking as an ''interim year,'' rather than a full ratemaking, such as was conducted in 2018. Thus, for this purpose, the Coast Guard proposes to adjust the compensation benchmark pursuant to § 404.104(b) rather than § 404.104(a).

A. Step 1: Recognition of Operating Expenses

Step 1 in our ratemaking methodology requires that the Coast Guard review and recognize the previous year's operating expenses (§ 404.101). To do so, we begin by reviewing the independent accountant's financial reports for each association's 2016

expenses and revenues.[12] For accounting purposes, the financial reports divide expenses into designated and undesignated areas. In certain instances, for example, costs are applied to the undesignated or designated area based on where they were actually accrued. For example, costs for ''Applicant pilot license insurance'' in District One are assigned entirely to the undesignated areas, as applicant pilots work exclusively in those areas. For costs that accrued to the pilot associations generally, for example, insurance, the cost is divided between the designated and undesignated areas on a *pro rata* basis. The recognized operating expenses for the three districts are laid out in tables 3 through 5.

As noted above, in 2016, the Coast Guard began authorizing surcharges to cover the training costs of applicant pilots. The surcharges were intended to reimburse pilot associations for training applicants in a more timely fashion than if those costs were listed as operating expenses, which would have required three years to reimburse. The rationale for using surcharges to cover these expenses, rather than including the costs as operating expenses, was so that retiring pilots would not have to cover the costs of training their replacements. Because operating expenses incurred are not actually recouped for a period of three years, beginning in 2016, the Coast Guard added a $150,000 surcharge per applicant pilot to recoup those costs in the year incurred. To ensure that the ratepayers are not double-billed for the same expense(s), we need to deduct the amount collected via surcharges from the operating expenses. For that reason, the Coast Guard is proposing a ''surcharge adjustment from 2016'' as part of its proposed adjustment for each pilotage district. This surcharge adjustment reflects the additional monies that were collected by the surcharge collected that year. We note that in 2016, there was no mechanism to prevent the collection of surcharges above the authorized amounts, and so the amounts we propose to deduct from each association's operating expenses are equal to the actual amount of surcharges collected in the 2016 shipping season, which are in excess of $150,000 per applicant pilot.

We also propose to deduct 3 percent of the ''shared counsel'' expenses for each district, to account for lobbying expenditures. Pursuant to 33 CFR 404.2(c)(3), lobbying expenses are not permitted to be recouped as operating expenses.

For each of the analyses of the operating expenses below, we explain why we are proposing to make the Director's adjustments, other than the surcharge adjustments and lobbying expenses, described above. Other adjustments have been made by the auditors and are explained in the auditor's reports, which are available in the docket for this rulemaking. Numbers by the entries are references to descriptions in the auditor's reports.

TABLE 3—2016 RECOGNIZED EXPENSES FOR DISTRICT ONE

Reported expenses for 2016	District One		
	Designated	Undesignated	Total
	St. Lawrence River	Lake Ontario	
Costs relating to pilots:			
Pilot subsistence/travel	$421,749	$336,384	$758,133
Subsistence/Travel—Pilots (D1–16–01)	−70,224	−34,846	−105,070
License insurance	40,464	28,269	68,733
Payroll taxes	111,279	90,179	201,458
Payroll taxes—Pilots (D1–16–03)	0	−2,509	−2,509
Training	17,198	13,717	30,915
Training—Pilots (D1–16–04)	−594	0	−594
Other	842	672	1,514
Total costs relating to pilots	520,714	431,866	952,580
Applicant Pilots:			
Wages	70,700	90,000	160,700
Wages (D1–16–02)	0	28,054	28,054
Subsistence/Travel	0	146,219	146,219
Subsistence/Travel—Trainees (D1–16–02)	−12,283	−20,589	−32,872
Benefits	0	0	0
Payroll taxes	8,039	11,123	19,162
Payroll taxes—Trainees (D1–16–03)	0	−5,115	−5,115
Surcharge Offset—Director's Adjustment	−318,117	−253,649	−571,766
Total applicant pilot costs	−251,661	−3,957	−255,618
Pilot Boat and Dispatch Costs:			
Pilot boat expense	209,800	167,335	377,135
Dispatch expense	51,240	31,705	82,945
Payroll taxes	16,007	12,767	28,774
Total pilot and dispatch costs	277,047	211,807	488,854
Administrative Expenses:			
Legal—general counsel	4,565	3,641	8,206
Legal—shared (K&L Gates) (D1–16–05)	20,558	16,397	36,955
Legal—shared (K&L Gates) (D1–16–05)	−713	−713	−1,426

[12] These reports are available in the docket for this rulemaking (see Docket # USCG–2018–0665).

TABLE 3—2016 RECOGNIZED EXPENSES FOR DISTRICT ONE—Continued

Reported expenses for 2016	District One		
	Designated	Undesignated	Total
	St. Lawrence River	Lake Ontario	
Legal—shared counsel 3% lobbying fee (K&L Gates) (Director's Adjustment)	−617	−492	−1,109
Office rent	0	0	0
Insurance	21,869	17,443	39,312
Employee benefits—Admin	9,428	7,519	16,947
Payroll taxes—Admin	6,503	5,187	11,690
Other taxes	274,503	218,941	493,444
Admin Travel	2,346	1,871	4,217
Depreciation/Auto leasing/Other	65,971	52,618	118,589
Interest	20,688	16,501	37,189
Dues and Subscriptions (incl. APA) (D1–16–05)	29,687	13,959	43,646
Dues and Subscriptions (incl. APA) (D1–16–05)	−1,079	−1,079	−2,158
Utilities	12,318	9,578	21,896
Salaries—Admin	65,401	52,163	117,564
Accounting/Professional fees	5,479	3,921	9,400
Other	23,456	18,708	42,164
Total Administrative Expenses	560,363	436,163	996,526
Total Operating Expenses	1,106,463	1,075,879	2,182,342

In District One, we do not propose any additional Director's adjustments.

TABLE 4—2016 RECOGNIZED EXPENSES FOR DISTRICT TWO

Reported expenses for 2016	District Two		
	Undesignated	Designated	Total
	Lake Erie	SES to Port Huron	
Pilot-related expenses:			
Pilot subsistence/travel	$131,956	$197,935	$329,891
Pilot subsistence/travel CPA Adjustment (D2–16–01)	−44,955	−67,433	−112,388
License insurance	10,095	15,142	25,237
License Insurance CPA Adjustment (D2–16–03)	−635	−953	−1,588
Payroll taxes	77,306	115,958	193,264
Total Pilot-related expenses	173,767	260,649	434,416
Expenses related to applicant pilots:			
Wages (from supplemental form)	228,499	342,749	571,248
Wages—Director's Adjustment	−125,472	−188,209	−313,681
Benefits (from supplemental form)	9,736	14,605	24,341
Applicant pilot Subsistence/Travel	43,905	65,858	109,763
Applicant Pilot subsistence/travel CPA Adjustment (D2–16–02)	−14,940	−22,410	−37,350
Housing Allowance CPA Adjustment (D2–16–02)	14,940	22,410	37,350
Payroll taxes	15,144	22,717	37,861
2016 Surcharge Offset Director's Adjustment	−158,640	−277,106	−435,746
Total applicant pilot expenses	13,172	−19,386	−6,214
Pilot Boat and Dispatch Costs:			
Pilot boat expense	205,572	308,359	513,931
Dispatch expense	8,520	12,780	21,300
Employee benefits	75,405	113,107	188,512
Payroll taxes	10,305	15,457	25,762
Total pilot and dispatch costs	299,802	449,703	749,505
Administrative Expenses:			
Office rent	26,275	39,413	65,688
Office Rent CPA Adjustment (D2–16–08)	4,766	7,150	11,916
Legal—general counsel	1,624	2,437	4,061
Legal—shared counsel (K&L Gates)	13,150	19,725	32,875
Legal—shared counsel CPA Adjustment (D2–16–04)	−526	−789	−1,315

TABLE 4—2016 RECOGNIZED EXPENSES FOR DISTRICT TWO—Continued

Reported expenses for 2016	District Two		
	Undesignated	Designated	Total
	Lake Erie	SES to Port Huron	
Legal—shared counsel 3% lobbying fee (K&L Gates) (Director's Adjustment)	−395	−592	−987
Employee Benefits—Admin Employees	59,907	89,861	149,768
Employee benefits (Director's Adjustment)	−30,200	−60,400	−90,600
Workman's compensation—pilots	74,561	111,841	186,402
Payroll taxes—admin employees	5,688	8,532	14,220
Insurance	10,352	15,529	25,881
Other taxes	9,149	13,723	22,872
Administrative Travel	18,205	27,307	45,512
Administrative Travel (D2–16–06)	−153	−229	−382
Depreciation/auto leasing/other	39,493	59,239	98,732
Depreciation/Auto leasing/Other CPA Adjustment (D2–16–03)	−221	−332	−553
Interest	6,224	9,336	15,560
APA Dues	17,145	25,717	42,862
APA Dues CPA Adjustment (D2–16–04)	−815	−1,223	−2,038
Utilities	16,748	25,121	41,869
Salaries	55,426	83,139	138,565
Accounting/Professional fees	12,520	18,780	31,300
Other	128,093	192,139	320,232
Other CPA Adjustment (D2–16–07)	−221	−332	−553
Total Administrative Expenses	435,975	638,861	1,074,836
Total Operating Expenses	922,716	1,329,827	2,252,543

In District Two, we propose two additional Director's adjustments. First, we note that we initially received inaccurate information from District Two regarding applicant pilot wages.[13] In response to our inquiries, District Two provided updated information about wages and benefits paid to applicant pilots and asserted that wages for two applicant pilots were $571,248 combined. Because this number is far out of line from wages paid to applicant pilots in other districts, as well as the Coast Guard's estimate of approximately $150,000 per pilot to pay for wages, benefits, and training, the Director proposes only allowing a portion of these expenses to be recouped as reasonable operating expenses. Therefore, we propose an adjustment of −$313,681 to the allowed recoupable operating expenses for District Two. This results in a total wage of $257,567, or approximately $128,783 per applicant, which is equal to the wages for applicant pilots in District Three. Given that the Coast Guard estimated the total cost for each applicant pilot to be $150,000, we believe this is a reasonable adjustment and the Director will allow the full amount.

We also deducted a total of $90,600 from the employee benefits costs of District Two. This is based on a note from the auditor that this money had been used for ''health insurance expenses . . . paid to retired pilots who performed pilotage services for the District in 2016.'' [14] While pilot associations are free to hire additional pilots to assist with workloads, money paid to them comes from the general monies used to pay pilot compensation. Unlike payroll taxes, we consider health benefits to be ''compensation,'' and compensation paid to pilots cannot be recouped as operating expenses, as health care expenses were part of the calculations of the compensation benchmark rate set forth in the 2018 final rule.

TABLE 5—2016 RECOGNIZED EXPENSES FOR DISTRICT THREE

Reported expenses for 2016	District Three		
	Undesignated	Designated	Total
	Lakes Huron and Michigan and Lake Superior	St. Mary's River	
Pilotage Costs:			
Pilot subsistence/travel	$378,014	$100,485	$478,499
Pilot subsistence/Travel (D3–16–01)	−50,285	−13,367	−63,652
Pilot subsistence/Travel director's adjustment (housing allowance)	0	−36,900	−36,900
License insurance	21,446	5,701	27,147
Payroll taxes	194,159	51,612	245,771
Other	19,193	72,202	91,395

[13] District Two initially reported paying $1,772,213 in compensation to 5 applicant pilots, although they were authorized only two applicants in 2016. See docket # USCG–2018–0665–0003, p. 8.

[14] Docket # USCG–2018–0665–0003, p. 8.

TABLE 5—2016 RECOGNIZED EXPENSES FOR DISTRICT THREE—Continued

Reported expenses for 2016	District Three		
	Undesignated	Designated	Total
	Lakes Huron and Michigan and Lake Superior	St. Mary's River	
Total Pilotage Costs	562,527	179,733	742,260
Applicant Pilots:			
Wages	610,433	162,267	772,700
Benefits	100,234	26,644	126,878
Subsistence/travel	170,089	45,214	215,303
Payroll taxes	50,561	13,440	64,001
Training	11,642	3,095	14,737
Surcharge Adjustment	−1,106,339	−235,673	−1,342,012
Total applicant pilotage costs	−163,380	14,987	−148,393
Pilot Boat and Dispatch Costs:			
Pilot boat costs	580,822	154,396	735,218
Pilot boat costs (D3–16–02)	−72,724	−19,332	−92,056
Dispatch costs	146,220	38,868	185,088
Employee benefits	6,517	1,733	8,250
Payroll taxes	15,745	4,186	19,931
Total pilot boat and dispatch costs	676,580	179,851	856,431
Administrative Expenses:			
Legal—general counsel	22,196	5,900	28,096
Legal—shared counsel (K&L Gates)	34,020	9,043	43,063
Legal—shared counsel 3% (Director's Adjustment)	−1,021	−271	−1,292
Office rent	6,978	1,855	8,833
Insurance	14,562	3,871	18,433
Employee benefits	103,322	27,465	130,787
Payroll Taxes (administrative employees)	6,540	1,739	8,279
Other taxes	1,338	356	1,694
Depreciation/auto leasing/other	46,016	12,232	58,248
Interest	2,775	738	3,513
APA Dues	24,760	6,582	31,342
Utilities	38,763	10,304	49,067
Administrative Salaries	94,371	25,086	119,457
Accounting/Professional fees	31,877	8,474	40,351
Pilot Training	35,516	9,441	44,957
Other	13,619	3,621	17,240
Other expenses (D3–16–03)	−2,054	−546	−2,600
Total Administrative Expenses	473,578	125,890	599,468
Total Operating Expenses	1,549,305	500,461	2,049,766

For District Three, the Director proposes to disallow $36,900 in ''housing allowance'' expenditures. At this time, we do not know if these funds were for properties that were available to all of the association partners/members (and thus recoverable as operating expenses) or if these funds were used for properties that were exclusively used by a single member and his family (and therefore not recoverable as operating expenses). We invite the pilot association to provide the receipts that could help to determine if these are recoverable operating expenses.

B. Step 2: Projection of Operating Expenses

Having identified the recognized 2016 operating expenses in Step 1, the next step is to estimate the current year's operating expenses by adjusting those expenses for inflation over the 3-year period. We calculated inflation using the Bureau of Labor Statistics' data from the Consumer Price Index for the Midwest Region of the United States [15] and reports from the Federal Reserve.[16] Based on that information, the calculations for Step 1 are as follows:

TABLE 6—2016 ADJUSTED OPERATING EXPENSES FOR DISTRICT ONE

	Designated	Undesignated	Total
Total Operating Expenses (Step 1)	$1,106,463	$1,075,879	$2,182,342
2017 Inflation Modification (@1.7%)	18,810	18,290	37,100
2018 Inflation Modification (@2.1%)	23,631	22,978	46,609
2019 Inflation Modification (@2.1%)	24,127	23,460	47,587
Adjusted 2019 Operating Expenses	1,173,031	1,140,607	2,313,638

TABLE 7—ADJUSTED OPERATING EXPENSES FOR DISTRICT TWO

	Undesignated	Designated	Total
Total Operating Expenses (Step 1)	$922,716	$1,329,827	$2,252,543
2017 Inflation Modification (@1.7%)	15,686	22,607	38,293
2018 Inflation Modification (@2.1%)	19,706	28,401	48,107
2019 Inflation Modification (@2.1%)	20,120	28,998	49,118
Adjusted 2019 Operating Expenses	978,228	1,409,833	2,388,061

TABLE 8—ADJUSTED OPERATING EXPENSES FOR DISTRICT THREE

	Undesignated	Designated	Total
Total Operating Expenses (Step 1)	$1,549,305	$500,461	$2,049,766
2017 Inflation Modification (@1.7%)	26,338	8,508	34,846
2018 Inflation Modification (@2.1%)	33,089	10,688	43,777
2019 Inflation Modification (@2.1%)	33,783	10,913	44,696
Adjusted 2019 Operating Expenses	1,642,515	530,570	2,173,085

C. Step 3: Estimate Number of Working Pilots

In accordance with the text in § 404.103, we estimated the number of working pilots in each district. Based on input from the Saint Lawrence Seaway Pilots Association, we estimate that there will be 17 working pilots in 2019 in District One. Based on input from the Lakes Pilots Association, we estimate there will be 14 working pilots in 2019 in District Two. Based on input from the Western Great Lakes Pilots Association, we estimate there will be 20 working pilots in 2019 in District Three.

Furthermore, based on the staffing model employed to develop the total number of pilots needed, we assign a certain number of pilots to designated waters and a certain number to undesignated waters. These numbers are used to determine the amount of revenue needed in their respective areas.

TABLE 9—AUTHORIZED PILOTS

	District One	District Two	District Three
Maximum number of pilots (per § 401.220(a)) [17]	17	15	22
2019 Authorized pilots (total)	17	14	20
Pilots assigned to designated areas	10	7	4
Pilots assigned to undesignated areas	7	7	16

D. Step 4: Determine Target Pilot Compensation

In this step, we determine the total pilot compensation for each area. Because we are proposing an ''interim'' ratemaking this year, we propose to follow the procedure outlined in paragraph (b) of § 404.104, which adjusts the existing compensation benchmark by inflation. Because we do not have a value for the employment cost index for 2019, we multiply last year's compensation benchmark by the Median PCE Inflation of 2.1 percent.[18] Based on the projected 2019 inflation estimate, the proposed compensation

[15] *Available at https://www.bls.gov/regions/midwest/data/consumerpriceindexhistorical_midwest_table.pdf.*

[16] *https://www.federalreserve.gov/monetarypolicy/files/fomcprojtabl20180613.pdf.*

[17] For a detailed calculation of the staffing model, see 82 FR 41466, table 6 at 41480 (August 31, 2017).

[18] *https://www.federalreserve.gov/monetarypolicy/files/fomcprojtabl20180613.pdf.*

benchmark for 2019 is $359,887 per pilot.

Next, we certify that the number of pilots estimated for 2019 is less than or equal to the number permitted under the staffing model in § 401.220(a). The staffing model suggests that the number of pilots needed is 17 pilots for District One, 15 pilots for District Two, and 22 pilots for District Three,[19] which is more than or equal to the numbers of working pilots provided by the pilot associations.

Thus, in accordance with proposed § 404.104(c), we use the revised target individual compensation level to derive the total pilot compensation by multiplying the individual target compensation by the estimated number of working pilots for each district, as shown in tables 10–12.

TABLE 10—TARGET COMPENSATION FOR DISTRICT ONE

	Designated	Undesignated	Total
Target Pilot Compensation	$359,887	$359,887	$359,887
Number of Pilots	10	7	17
Total Target Pilot Compensation	3,598,870	2,519,209	6,118,079

TABLE 11—TARGET COMPENSATION FOR DISTRICT TWO

	Undesignated	Designated	Total
Target Pilot Compensation	$359,887	$359,887	$359,887
Number of Pilots	7	7	14
Total Target Pilot Compensation	2,519,209	2,519,209	5,038,418

TABLE 12—TARGET COMPENSATION FOR DISTRICT THREE

	Undesignated	Designated	Total
Target Pilot Compensation	$359,887	$359,887	$359,887
Number of Pilots	16	4	20
Total Target Pilot Compensation	5,758,192	1,439,548	7,197,740

E. Step 5: Calculate Working Capital Fund

Next, we calculate the working capital fund revenues needed for each area. First, we add the figures for projected operating expenses and total pilot compensation for each area. Next, we find the preceding year's average annual rate of return for new issues of high grade corporate securities. Using Moody's data, that number is 3.74 percent.[20] By multiplying the two figures, we get the working capital fund contribution for each area, as shown in tables 13–15.

TABLE 13—WORKING CAPITAL FUND CALCULATION FOR DISTRICT ONE

	Designated	Undesignated	Total
Adjusted Operating Expenses (Step 2)	$1,173,031	$1,140,607	$2,313,638
Total Target Pilot Compensation (Step 4)	3,598,870	2,519,209	6,118,079
Total 2019 Expenses	4,771,901	3,659,816	8,431,717
Working Capital Fund (3.74%)	178,469	136,877	315,346

TABLE 14—WORKING CAPITAL FUND CALCULATION FOR DISTRICT TWO

	Undesignated	Designated	Total
Adjusted Operating Expenses (Step 2)	$978,228	$1,409,833	$2,388,061
Total Target Pilot Compensation (Step 4)	2,519,209	2,519,209	5,038,418
Total 2019 Expenses	3,497,437	3,929,042	7,426,479
Working Capital Fund (3.74%)	130,804	146,946	277,750

[19] See Table 6 of the 2017 final rule, 82 FR 41466 at 41480 (August 31, 2017). The methodology of the staffing model is discussed at length in the final rule (see pages 41476–41480 for a detailed analysis of the calculations).

[20] Moody's Seasoned Aaa Corporate Bond Yield, average of 2017 monthly data. The Coast Guard uses the most recent complete year of data. See *http://research.stlouisfed.org/fred2/series/AAA/downloaddata?cid=119*.

TABLE 15—WORKING CAPITAL FUND CALCULATION FOR DISTRICT THREE

	Undesignated	Designated	Total
Adjusted Operating Expenses (Step 2)	$1,642,515	$530,570	$2,173,085
Total Target Pilot Compensation (Step 4)	5,758,192	1,439,548	7,197,740
Total 2019 Expenses	7,400,707	1,970,118	9,370,825
Working Capital Fund (3.74%)	276,786	73,682	350,468

F. Step 6: Calculate Revenue Needed

In this step, we add up all the expenses accrued to derive the total revenue needed for each area. These expenses include the projected operating expenses (from Step 2), the total pilot compensation (from Step 4), and the working capital fund contribution (from Step 5). The calculations are shown in tables 15–17.

TABLE 15—REVENUE NEEDED FOR DISTRICT ONE

	Designated	Undesignated	Total
Adjusted Operating Expenses (Step 2)	$1,173,031	$1,140,607	$2,313,638
Total Target Pilot Compensation (Step 4)	3,598,870	2,519,209	6,118,079
Working Capital Fund (Step 5)	178,469	136,877	315,346
Total Revenue Needed	4,950,370	3,796,693	8,747,063

TABLE 16—REVENUE NEEDED FOR DISTRICT TWO

	Undesignated	Designated	Total
Adjusted Operating Expenses (Step 2)	$978,228	$1,409,833	$2,388,061
Total Target Pilot Compensation (Step 4)	2,519,209	2,519,209	5,038,418
Working Capital Fund (Step 5)	130,804	146,946	277,750
Total Revenue Needed	3,628,241	4,075,988	7,704,229

TABLE 17—REVENUE NEEDED FOR DISTRICT THREE

	Undesignated	Designated	Total
Adjusted Operating Expenses (Step 2)	$1,642,515	$530,570	$2,173,085
Total Target Pilot Compensation (Step 4)	5,758,192	1,439,548	7,197,740
Working Capital Fund (Step 5)	276,786	73,682	350,468
Total Revenue Needed	7,677,493	2,043,800	9,721,293

G. Step 7: Calculate Initial Base Rates

Having determined the revenue needed for each area in the previous six steps, we divide that number by the expected number of hours of traffic to develop an hourly rate. Step 7 is a two-part process. In the first part, we calculate the 10-year average of traffic in each district. Because we are calculating separate figures for designated and undesignated waters, there are two parts for each calculation. The calculations are shown in tables 18–20.

TABLE 18—TIME ON TASK FOR DISTRICT ONE

Year	Designated	Undesignated
2017	7605	8679
2016	5434	6217
2015	5743	6667
2014	6810	6853
2013	5864	5529
2012	4771	5121
2011	5045	5377
2010	4839	5649
2009	3511	3947
2008	5829	5298
Average	5545	5934

TABLE 19—TIME ON TASK FOR DISTRICT TWO

Year	Undesignated	Designated
2017	5139	6074
2016	6425	5615
2015	6535	5967
2014	7856	7001
2013	4603	4750
2012	3848	3922
2011	3708	3680
2010	5565	5235
2009	3386	3017
2008	4844	3956
Average	5191	4922

TABLE 20—TIME ON TASK FOR DISTRICT THREE

Year	Undesignated	Designated
2017	26183	3798
2016	23421	2769
2015	22824	2696
2014	25833	3835
2013	17115	2631
2012	15906	2163
2011	16012	1678
2010	20211	2461
2009	12520	1820
2008	14287	2286
Average	19431	2614

Next, we derive the initial hourly rate by dividing the revenue needed by the average number of hours for each area. This produces an initial rate needed to produce the revenue needed for each area, assuming the amount of traffic is as expected. The calculations for each area are set forth in tables 21–23.

TABLE 21—INITIAL RATE CALCULATIONS FOR DISTRICT ONE

	Designated	Undesignated
Revenue needed (Step 6)	$4,950,370	$3,796,693
Average time on task (hours)	5,545	5,934
Initial rate	893	640

TABLE 22—INITIAL RATE CALCULATIONS FOR DISTRICT TWO

	Undesignated	Designated
Revenue needed (Step 6)	$3,628,241	$4,075,988
Average time on task (hours)	5,191	4,922
Initial rate	699	828

TABLE 23—INITIAL RATE CALCULATIONS FOR DISTRICT THREE

	Undesignated	Designated
Revenue needed (Step 6)	$7,677,493	$2,043,800
Average time on task (hours)	19,431	2,614
Initial rate	395	782

H. Step 8: Calculate Weighting Factors by Area

In this step, we calculate the average weighting factor for each designated and undesignated area. We collect the weighting factors, set forth in 46 CFR 401.400, for each vessel trip. Using this database, we calculate the average weighting factor for each area using the data from each vessel transit from 2014 onward, as shown in tables 24–29.

TABLE 24—AVERAGE WEIGHTING FACTOR FOR DISTRICT 1, DESIGNATED AREAS

Vessel class/year	Number of transits	Weighting factor	Weighted transits
Class 1 (2014)	31	1	31
Class 1 (2015)	41	1	41
Class 1 (2016)	31	1	31
Class 1 (2017)	28	1	28
Class 2 (2014)	285	1.15	327.75
Class 2 (2015)	295	1.15	339.25
Class 2 (2016)	185	1.15	212.75
Class 2 (2017)	352	1.15	404.8
Class 3 (2014)	50	1.3	65
Class 3 (2015)	28	1.3	36.4
Class 3 (2016)	50	1.3	65
Class 3 (2017)	67	1.3	87.1
Class 4 (2014)	271	1.45	392.95
Class 4 (2015)	251	1.45	363.95
Class 4 (2016)	214	1.45	310.3
Class 4 (2017)	285	1.45	413.25
Total	2464		3149.5
Average weighting factor (weighted transits/number of transits)		1.28	

TABLE 25—AVERAGE WEIGHTING FACTOR FOR DISTRICT 1, UNDESIGNATED AREAS

Vessel class/year	Number of transits	Weighting factor	Weighted transits
Class 1 (2014)	25	1	25
Class 1 (2015)	28	1	28
Class 1 (2016)	18	1	18
Class 1 (2017)	19	1	19
Class 2 (2014)	238	1.15	273.7
Class 2 (2015)	263	1.15	302.45
Class 2 (2016)	169	1.15	194.35
Class 2 (2017)	290	1.15	333.5
Class 3 (2014)	60	1.3	78
Class 3 (2015)	42	1.3	54.6
Class 3 (2016)	28	1.3	36.4
Class 3 (2017)	45	1.3	58.5
Class 4 (2014)	289	1.45	419.05
Class 4 (2015)	269	1.45	390.05
Class 4 (2016)	222	1.45	321.9
Class 4 (2017)	285	1.45	413.25
Total	2290		2965.75
Average weighting factor (weighted transits/number of transits)		1.30	

TABLE 26—AVERAGE WEIGHTING FACTOR FOR DISTRICT 2, UNDESIGNATED AREAS

Vessel class/year	Number of transits	Weighting factor	Weighted transits
Class 1 (2014)	31	1	31
Class 1 (2015)	35	1	35
Class 1 (2016)	32	1	32
Class 1 (2017)	21	1	21
Class 2 (2014)	356	1.15	409.4
Class 2 (2015)	354	1.15	407.1
Class 2 (2016)	380	1.15	437
Class 2 (2017)	222	1.15	255.3
Class 3 (2014)	20	1.3	26
Class 3 (2015)	0	1.3	0
Class 3 (2016)	9	1.3	11.7
Class 3 (2017)	12	1.3	15.6
Class 4 (2014)	636	1.45	922.2
Class 4 (2015)	560	1.45	812
Class 4 (2016)	468	1.45	678.6
Class 4 (2017)	319	1.45	462.55

TABLE 26—AVERAGE WEIGHTING FACTOR FOR DISTRICT 2, UNDESIGNATED AREAS—Continued

Vessel class/year	Number of transits	Weighting factor	Weighted transits
Total	3455		4556.45
Average weighting factor (weighted transits/number of transits)		1.32	

TABLE 27—AVERAGE WEIGHTING FACTOR FOR DISTRICT 2, DESIGNATED AREAS

Vessel class/year	Number of transits	Weighting factor	Weighted transits
Class 1 (2014)	20	1	20
Class 1 (2015)	15	1	15
Class 1 (2016)	28	1	28
Class 1 (2017)	15	1	15
Class 2 (2014)	237	1.15	272.55
Class 2 (2015)	217	1.15	249.55
Class 2 (2016)	224	1.15	257.6
Class 2 (2017)	127	1.15	146.05
Class 3 (2014)	8	1.3	10.4
Class 3 (2015)	8	1.3	10.4
Class 3 (2016)	4	1.3	5.2
Class 3 (2017)	4	1.3	5.2
Class 4 (2014)	359	1.45	520.55
Class 4 (2015)	340	1.45	493
Class 4 (2016)	281	1.45	407.45
Class 4 (2017)	185	1.45	268.25
Total	2072		2724.2
Average weighting factor (weighted transits/number of transits)		1.31	

TABLE 28—AVERAGE WEIGHTING FACTOR FOR DISTRICT 3, UNDESIGNATED AREAS

Vessel class/year	Number of transits	Weighting factor	Weighted transits
Area 6:			
Class 1 (2014)	45	1	45
Class 1 (2015)	56	1	56
Class 1 (2016)	136	1	136
Class 1 (2017)	148	1	148
Class 2 (2014)	274	1.15	315.1
Class 2 (2015)	207	1.15	238.05
Class 2 (2016)	236	1.15	271.4
Class 2 (2017)	264	1.15	303.6
Class 3 (2014)	15	1.3	19.5
Class 3 (2015)	8	1.3	10.4
Class 3 (2016)	10	1.3	13
Class 3 (2017)	19	1.3	24.7
Class 4 (2014)	394	1.45	571.3
Class 4 (2015)	375	1.45	543.75
Class 4 (2016)	332	1.45	481.4
Class 4 (2017)	367	1.45	532.15
Total for Area 6	2,886		3,709.35
Area 8:			
Class 1 (2014)	3	1	3
Class 1 (2015)	0	1	0
Class 1 (2016)	4	1	4
Class 1 (2017)	4	1	4
Class 2 (2014)	177	1.15	203.55
Class 2 (2015)	169	1.15	194.35
Class 2 (2016)	174	1.15	200.1
Class 2 (2017)	151	1.15	173.65
Class 3 (2014)	3	1.3	3.9
Class 3 (2015)	0	1.3	0
Class 3 (2016)	7	1.3	9.1
Class 3 (2017)	18	1.3	23.4
Class 4 (2014)	243	1.45	352.35
Class 4 (2015)	253	1.45	366.85

TABLE 28—AVERAGE WEIGHTING FACTOR FOR DISTRICT 3, UNDESIGNATED AREAS—Continued

Vessel class/year	Number of transits	Weighting factor	Weighted transits
Class 4 (2016)	204	1.45	295.8
Class 4 (2017)	269	1.45	390.05
Total for Area 8	1,679		2224.1
Combined total	4,565		5,933.45
Average weighting factor (weighted transits/number of transits)		1.30	

TABLE 29—AVERAGE WEIGHTING FACTOR FOR DISTRICT 3, DESIGNATED AREAS

Vessel class/year	Number of transits	Weighting factor	Weighted transits
Class 1 (2014)	27	1	27
Class 1 (2015)	23	1	23
Class 1 (2016)	55	1	55
Class 1 (2017)	62	1	62
Class 2 (2014)	221	1.15	254.15
Class 2 (2015)	145	1.15	166.75
Class 2 (2016)	174	1.15	200.1
Class 2 (2017)	170	1.15	195.5
Class 3 (2014)	4	1.3	5.2
Class 3 (2015)	0	1.3	0
Class 3 (2016)	6	1.3	7.8
Class 3 (2017)	14	1.3	18.2
Class 4 (2014)	321	1.45	465.45
Class 4 (2015)	245	1.45	355.25
Class 4 (2016)	191	1.45	276.95
Class 4 (2017)	234	1.45	339.3
Total	1892		2,451.65
Average weighting factor (weighted transits/number of transits)		1.30	

I. Step 9: Calculate Revised Base Rates

In this step, we revise the base rates so that once the impact of the weighting factors are considered, the total cost of pilotage will be equal to the revenue needed. To do this, we divide the initial base rates, calculated in Step 7, by the average weighting factors calculated in Step 8, as shown in table 30.

TABLE 30—REVISED BASE RATES

Area	Initial rate (Step 7)	Average weighting factor (Step 8)	Revised rate (initial rate/average weighting factor)
District One: Designated	$893	1.28	$698
District One: Undesignated	640	1.30	492
District Two: Undesignated	699	1.32	530
District Two: Designated	828	1.31	632
District Three: Undesignated	395	1.30	304
District Three: Designated	782	1.30	602

J. Step 10: Review and Finalize Rates

In this step, the Director reviews the rates set forth by the staffing model and ensures that they meet the goal of ensuring safe, efficient, and reliable pilotage. To establish that the proposed rates do meet the goal of ensuring safe, efficient and reliable pilotage, the Director considered whether the proposed rates incorporate appropriate compensation for pilots to handle heavy traffic periods and whether there are sufficient pilots to handle those heavy traffic periods. Also, he considered whether the proposed rates would cover operating expenses and infrastructure costs, and took average traffic and weighting factors into consideration. Based on this information, the Director is not proposing any alterations to the rates in this step. We propose to modify the text in § 401.405(a) to reflect the final rates, also shown in table 31.

TABLE 31—PROPOSED FINAL RATES

Area	Name	Final 2018 pilotage rate	Proposed 2019 pilotage rate
District One: Designated	St. Lawrence River	$653	$698
District One: Undesignated	Lake Ontario	435	492
District Two: Undesignated	Lake Erie	497	530
District Two: Designated	Navigable waters from Southeast Shoal to Port Huron, MI.	593	632
District Three: Undesignated	Lakes Huron, Michigan, and Superior	271	304
District Three: Designated	St. Mary's River	600	602

K. Surcharges

Because there are several applicant pilots in 2019, we are proposing to levy surcharges to cover the costs needed for training expenses. Consistent with previous years, we are proposing to assign a cost of $150,000 per applicant pilot. To develop the surcharge, we multiply the number of applicant pilots by the average cost per pilot to develop a total amount of training costs needed, and then impose that amount as a surcharge to all areas in the respective district, consisting of a percentage of revenue needed. In this year, there are two applicant pilots for District One, one applicant pilot for District Two, and four applicant pilots for District Three. The calculations to develop the surcharges are shown in table 32. We note that while the percentages are rounded for simplicity, such rounding does not impact the revenue generated, as surcharges can no longer be collected once the surcharge total has been attained.

Additionally, the Coast Guard is considering the necessity of continuing with the surcharge for applicant pilots in this or future rulemakings. As the vast majority of registered pilots are not scheduled to retire in the next 20 years, we believe that pilot associations are now able to plan for the costs associated with retirements without relying on the Coast Guard to impose surcharges. We invite comment on the necessity of continuing this practice.

TABLE 32—SURCHARGE CALCULATIONS

	District one	District two	District three
Number of applicant pilots	2	1	4
Total applicant training costs	$300,000	$150,000	$600,000
Revenue needed (Step 6)	$8,747,063	$7,704,229	$9,721,293
Total surcharge as percentage (total training costs/revenue)	3%	2%	6%

VIII. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive orders related to rulemaking. A summary of our analyses based on these statutes or Executive orders follows.

A. Regulatory Planning and Review

Executive Orders 12866 (Regulatory Planning and Review) and 13563, (Improving Regulation and Regulatory Review) direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 13771 (Reducing Regulation and Controlling Regulatory Costs) directs agencies to reduce regulation and control regulatory costs and provides that ''for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process.''

The Office of Management and Budget (OMB) has not designated this proposed rule a significant regulatory action under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed it. Because this proposed rule is not a significant regulatory action, it is exempt from the requirements of Executive Order 13771. *See* the OMB's Memorandum titled, ''Guidance Implementing Executive Order 13771, titled 'Reducing Regulation and Controlling Regulatory Costs' '' (April 5, 2017). A regulatory analysis (RA) follows.

The purpose of this rulemaking is to propose new base pilotage rates and surcharges for training. The last full ratemaking was concluded in June of 2018.

The Coast Guard is required to review and adjust pilotage rates on the Great Lakes annually. See sections IV and V of this preamble for detailed discussions of the legal basis and purpose for this rulemaking and for background information on Great Lakes pilotage ratemaking. Based on our annual review for this proposed rulemaking, we propose adjusting the pilotage rates for the 2019 shipping season to generate sufficient revenues for each district to reimburse its necessary and reasonable operating expenses, fairly compensate trained and rested pilots, and provide an appropriate working capital fund to use for improvements. The rate changes in this proposed rule would, if codified, lead to an increase in the cost per unit of service to shippers in all three districts, and result in an estimated annual cost increase to shippers. The total payments that would be made by shippers during the 2019 shipping season are estimated at approximately $2,066,143 more than the total payments that were estimated in 2018 (table 33).[21]

[21] Total payments across all three districts are equal to the increase in payments incurred by shippers as a result of the rate changes plus the temporary surcharges applied to traffic in Districts One, Two, and Three.

A detailed discussion of our economic impact analysis follows.

Affected Population

This proposed rule would impact U.S. Great Lakes pilots, the 3 pilot associations, and the owners and operators of oceangoing vessels that transit the Great Lakes annually. As discussed in step 3 in Section VII.C of this preamble, there will be 51 pilots working during the 2019 shipping season. The shippers affected by these rate changes are those owners and operators of domestic vessels operating ''on register'' (employed in foreign trade) and owners and operators of non-Canadian foreign vessels on routes within the Great Lakes system. These owners and operators must have pilots or pilotage service as required by 46 U.S.C. 9302. There is no minimum tonnage limit or exemption for these vessels. The statute applies only to commercial vessels and not to recreational vessels. United States-flagged vessels not operating on register and Canadian ''lakers,'' which account for most commercial shipping on the Great Lakes, are not required by 46 U.S.C. 9302 to have pilots. However, these U.S.- and Canadian-flagged lakers may voluntarily choose to engage a Great Lakes registered pilot. Vessels that are U.S.-flagged may opt to have a pilot for varying reasons, such as unfamiliarity with designated waters and ports, or for insurance purposes.

We used billing information from the years 2015 through 2017 from the Great Lakes Pilotage Management System (GLPMS) to estimate the average annual number of vessels affected by the rate adjustment. The GLPMS tracks data related to managing and coordinating the dispatch of pilots on the Great Lakes, and billing in accordance with the services. In Step 7 of the methodology, we use a 10-year average to estimate the traffic. We use 3 years of the most recent billing data to estimate the affected population. When we reviewed 10 years of the most recent billing data, we found the data included vessels that have not used pilotage services in recent years. We believe using 3 years of billing data is a better representation of the vessel population that is currently using pilotage services and would be impacted by this rulemaking. We found that 448 unique vessels used pilotage services during the years 2015 through 2017. That is, these vessels had a pilot dispatched to the vessel, and billing information was recorded in the GLPMS. Of these vessels, 418 were foreign-flagged vessels and 30 were U.S.-flagged. As previously stated, U.S.-flagged vessels not operating on register are not required to have a registered pilot per 46 U.S.C. 9302, but they can voluntarily choose to have one.

Vessel traffic is affected by numerous factors and varies from year to year. Therefore, rather than the total number of vessels over the time period, an average of the unique vessels using pilotage services from the years 2015 through 2017 is the best representation of vessels estimated to be affected by the rate proposed in this NPRM. From the years 2015 through 2017, an average of 256 vessels used pilotage services annually.[22] On average, 241 of these vessels were foreign-flagged vessels and 15 were U.S.-flagged vessels that voluntarily opted into the pilotage service.

Total Cost to Shippers

The rate changes resulting from this adjustment to the rates would add new costs to shippers in the form of higher payments to pilots. We estimate the effect of the rate changes on shippers by comparing the total projected revenues needed to cover costs in 2018 with the total projected revenues to cover costs in 2019, including any temporary surcharges we have authorized. We set pilotage rates so that pilot associations receive enough revenue to cover their necessary and reasonable expenses. Shippers pay these rates when they have a pilot as required by 46 U.S.C. 9302. Therefore, the aggregate payments of shippers to pilot associations are equal to the projected necessary revenues for pilot associations. The revenues each year represent the total costs that shippers must pay for pilotage services, and the change in revenue from the previous year is the additional cost to shippers discussed in this proposed rule.

The impacts of the proposed rate changes on shippers are estimated from the District pilotage projected revenues (shown in tables 15 through 17 of this preamble) and the proposed surcharges described in section VII.K of this preamble. We estimate that for the 2019 shipping season, the projected revenue needed for all three districts is $26,172,585. Temporary surcharges on traffic in Districts One, Two, and Three would be applied for the duration of the 2019 season in order for the pilotage associations to recover training expenses incurred for applicant pilots. We estimate that the pilotage associations would require $300,000, $150,000, and $600,000 in revenue for applicant training expenses in Districts One, Two, and Three, respectively. This would represent a total cost of $1,050,000 to shippers during the 2019 shipping season. Adding the projected revenue of $26,172,585 to the proposed surcharges, we estimate the pilotage associations' total projected revenue needed for 2019 would be $27,222,585.

To estimate the additional cost to shippers from this proposed rule, we compare the 2019 total projected revenues to the 2018 projected revenues. Because we review and prescribe rates for the Great Lakes Pilotage annually, the effects are estimated as a single year cost rather than annualized over a 10-year period. In the 2018 rulemaking,[23] we estimated the total projected revenue needed for 2018, including surcharges, as $25,156,442. This is the best approximation of 2018 revenues as, at the time of this publication, we do not have enough audited data available for the 2018 shipping season to revise these projections. Table 33 shows the revenue projections for 2018 and 2019 and details the additional cost increases to shippers by area and district as a result of the rate changes and temporary surcharges on traffic in Districts One, Two, and Three.

TABLE 33—EFFECT OF THE PROPOSED RULE BY AREA AND DISTRICT

[$U.S.; non-discounted]

Area	Revenue needed in 2018	2018 temporary surcharge	Total 2018 projected revenue	Revenue needed in 2019	2019 temporary surcharge	Total 2019 projected revenue	Additional costs of this rule
Total, District 1	$7,988,670	$300,000	$8,288,670	$8,747,063	$300,000	$9,047,063	$758,393

[22] Some vessels entered the Great Lakes multiple times in a single year, affecting the average number of unique vessels utilizing pilotage services in any given year.

[23] The 2018 projected revenues are from the 2018 Great Lakes Pilotage Ratemaking final rule (83 FR 26189), Table 41.

TABLE 33—EFFECT OF THE PROPOSED RULE BY AREA AND DISTRICT—Continued

[$U.S.; non-discounted]

Area	Revenue needed in 2018	2018 temporary surcharge	Total 2018 projected revenue	Revenue needed in 2019	2019 temporary surcharge	Total 2019 projected revenue	Additional costs of this rule
Total, District 2	7,230,300	150,000	7,380,300	7,704,229	150,000	7,854,229	473,929
Total, District 3	8,887,472	600,000	9,487,472	9,721,293	600,000	10,321,293	833,821
System Total	$24,106,442	$1,050,000	$25,156,442	$26,172,585	$1,050,000	$27,222,585	$2,066,143

The resulting difference between the projected revenue in 2018 and the projected revenue in 2019 is the proposed annual change in payments from shippers to pilots as a result of the rate change that would be imposed by this rule. The effect of the proposed rate change to shippers varies by area and district. The rate changes, after taking into account the increase in pilotage rates and the addition of temporary surcharges, would lead to affected shippers operating in District One, District Two, and District Three experiencing an increase in payments of $758,393, $473,929, and $833,821, respectively, over the previous year. The overall adjustment in payments would be an increase in payments by shippers of $2,066,143 across all three districts (an 8 percent increase over 2018). Again, because we review and set rates for Great Lakes Pilotage annually, we estimate the impacts as single year costs rather than annualizing them over a 10-year period.

Table 34 shows the difference in revenue by component from 2018 to 2019.[24] The majority of the increase in revenue is due to the inflation of operating expenses and to the addition of two pilots who were authorized in the 2018 rule. These two pilots are training in 2018 and will become full-time working pilots at the beginning of the 2019 shipping season. They would be compensated at the target compensation of $359,887 per pilot. The addition of these pilots to full working status accounts for $719,774 of the increase ($1,082,472 when also including the effect of increasing compensation for 49 pilots). The remaining amount is attributed to increases in the working capital fund.

TABLE 34—DIFFERENCE IN REVENUE BY COMPONENT

Revenue component	Revenue needed in 2018	Revenue needed in 2019	Difference (2019 revenue–2018 revenue)
Adjusted Operating Expenses	$5,965,599	$6,874,784	$909,185
Total Target Pilot Compensation	17,271,765	18,354,237	1,082,472
Working Capital Fund	869,078	943,564	74,486
Total Revenue Needed, without Surcharge	24,106,442	26,172,585	2,066,143
Surcharge	1,050,000	1,050,000	0
Total Revenue Needed, with Surcharge	25,156,442	27,222,585	2,066,143

Pilotage Rates as a Percentage of Vessel Operating Costs

To estimate the impact of U.S. pilotage costs on foreign-flagged vessels that would be affected by the rate adjustment, we looked at the pilotage costs as a percentage of a vessel's costs for an entire voyage. The portion of the trip on the Great Lakes using a pilot is only a portion of the whole trip. The affected vessels are often traveling from a foreign port, and the days without a pilot on the total trip often exceed the days a pilot is needed.

To estimate this impact, we used the 2017 study titled, ''Analysis of Great Lakes Pilotage Costs on Great Lakes Shipping and the Potential Impact of Increases in U.S. Pilotage Charges.'' [25] We conducted the study to explore additional frameworks and methodologies for assessing the cost of Great Lakes pilot's ratemaking regulations, with a focus on capturing industry and port level economic impacts. The study also included an analysis of the pilotage costs as a percentage of the total voyage costs that we can use in RAs to estimate the direct impact of changes to the pilotage rates.

The study developed a voyage cost model that is based on a vessel's daily costs. The daily costs included: Capital repayment costs; fuel costs; operating costs (such as crew, supplies, and insurance); port costs; speed of the vessel; stevedoring rates; and tolls. The daily operating costs were translated into total voyage costs using mileage between the ports for a number of voyage scenarios. In the study, the total voyage costs were then compared to the U.S. pilotage costs. The study found that, using the 2016 rates, the U.S. pilotage charges represent 10 percent of the total voyage costs for a vessel carrying grain, and between 8 percent and 9 percent of the total voyage costs for a vessel carrying steel.[26] We updated the analysis to estimate the percentage U.S. pilotage charges represent using the percentage increase in revenues from the years 2016 to 2019. Since the study used 2016 as the latest year of data, we compared the revenues needed in 2019 and 2018 to the 2016 revenues in order to estimate the change in pilotage costs

[24] The 2018 projected revenues are from the 2018 final rule (83 FR 26189), table 41. The 2018 projected revenues are from tables 15–17 of this NPRM.

[25] The study is available at *http://www.dco.uscg.mil/Our-Organization/Assistant-Commandant-for-Prevention-Policy-CG-5P/Marine-Transportation-Systems-CG-5PW/Office-of-Waterways-and-Ocean-Policy/Office-of-Waterways-and-Ocean-Policy-Great-Lakes-Pilotage-Div/*.

[26] Martin Associates, ''Analysis of Great Lakes Pilotage Costs on Great Lakes Shipping and the Potential Impact of Increases in U.S. Pilotage Charges,'' page 33. Available at *http://www.regulations.gov,* USCG–2018–0665–0005.

as a percentage of total voyage costs from 2018 to 2019. Table 35 shows the revenues needed for the years 2016, 2017, and 2018.

TABLE 35—REVENUE NEEDED IN 2016, 2017, 2018, AND 2019

Revenue component	Revenue needed in 2016	Revenue needed in 2017	Revenue needed in 2018	Revenue needed in 2019
Adjusted Operating Expenses	$4,677,518	$5,155,280	$5,965,599	$6,874,784
Total Target Pilot Compensation	12,066,226	14,983,335	17,271,765	18,354,237
Working Capital Fund	709,934	837,766	869,078	943,564
Total Revenue Needed, without Surcharge	*17,453,678*	*20,976,381*	*24,106,442*	26,172,585
Surcharge	1,650,000	1,350,000	1,050,000	1,050,000
Total Revenue Needed, with Surcharge	19,103,678	22,326,381	25,156,442	27,222,585
% Increase from 2016 Total Revenue	.....	17%	32%	42%
U.S. Pilotage Cost as Percentage of the Total Voyage Costs	9.8%	11.3%	12.6%	13.4%

From 2016 to 2019, the total revenues needed would increase by 42 percent. While the change in total voyage cost would vary by the trip, vessel class, and whether the vessel is carrying steel or grain, we used these percentages as an average increase to estimate the change in the impact. When we increased the 2016 base pilotage charges by 32 percent, we found the U.S. pilotage costs represented an average of 12.6 percent of the total voyage costs for 2018. To look at the percentage of the total voyage costs for 2019, we then increased the base 2016 rates by 42 percent. With this proposed rule's rates for 2019, pilotage costs are estimated to account for 13.4 percent of the total voyage costs, or a 0.8 percent increase over the percentage that U.S. pilotage costs represented of the total voyage in 2018.

It is important to note that this analysis is based on a number of assumptions. The purpose of the study was to look at the impact of the U.S. pilotage rates. The study did not include an analysis of the GLPA rates. It was assumed that a U.S. pilot is assigned to all portions of a voyage where he or she could be assigned. In reality, the assignment of a United States or Canadian pilot is based on the order in which a vessel enters the system, as outlined in the Memorandum of Understanding between the GLPA and the Coast Guard.

This analysis only looks at the impact of proposed U.S. pilotage cost changes. All other costs were held constant at the 2016 levels, including Canadian pilotage costs, tolls, stevedoring, and port charges. This analysis estimates the impacts of Great Lakes pilotage rates holding all other factors constant. If other factors or sectors were not held constant but, instead, were allowed to adjust or fluctuate, it is likely that the impact of pilotage rates would be different. Many factors that drive the tonnage levels of foreign cargo on the Great Lakes and St. Lawrence Seaway were held constant for this analysis. These factors include, but are not limited to, demand for steel and grain, construction levels in the regions, tariffs, exchange rates, weather conditions, crop production, rail and alternative route pricing, tolls, vessel size restriction on the Great Lakes and St. Lawrence Seaway, and inland waterway river levels.

Benefits

This proposed rule would allow the Coast Guard to meet the requirements in 46 U.S.C. 9303 to review the rates for pilotage services on the Great Lakes. The rate changes would promote safe, efficient, and reliable pilotage service on the Great Lakes by: (1) Ensuring that rates cover an association's operating expenses; (2) providing fair pilot compensation, adequate training, and sufficient rest periods for pilots; and (3) ensuring the association produces enough revenue to fund future improvements. The rate changes would also help recruit and retain pilots, which would ensure a sufficient number of pilots to meet peak shipping demand, helping to reduce delays caused by pilot shortages.

B. Small Entities

Under the Regulatory Flexibility Act, 5 U.S.C. 601–612, we have considered whether this proposed rule would have a significant economic effect on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000 people.

For the proposed rule, we reviewed recent company size and ownership data for the vessels identified in the GLPMS, and we reviewed business revenue and size data provided by publicly available sources such as MANTA [27] and ReferenceUSA.[28] As described in Section VIII.A of this preamble, Regulatory Planning and Review, we found that a total of 448 unique vessels used pilotage services from 2015 through 2017. These vessels are owned by 57 entities. We found that of the 57 entities that own or operate vessels engaged in trade on the Great Lakes affected by this proposed rule, 47 are foreign entities that operate primarily outside the United States. The remaining 10 entities are U.S. entities. We compared the revenue and employee data found in the company search to the Small Business Administration's (SBA) Table of Small Business Size Standards [29] to determine how many of these companies are small entities. Table 36 shows the North American Industry Classification System (NAICS) codes of the U.S. entities and the small entity standard size established by the SBA.

[27] See *http://www.manta.com/*.

[28] See *http://resource.referenceusa.com/*.

[29] Source: *https://www.sba.gov/contracting/getting-started-contractor/make-sure-you-meet-sba-size-standards/table-small-business-size-standards*. SBA has established a Table of Small Business Size Standards, which is matched to NAICS industries. A size standard, which is usually stated in number of employees or average annual receipts (''revenues''), represents the largest size that a business (including its subsidiaries and affiliates) may be considered in order to remain classified as a small business for SBA and Federal contracting programs.

TABLE 36—NAICS CODES AND SMALL ENTITIES SIZE STANDARDS

NAICS	Description	Small business size standard
238910	Site Preparation Contractors	$15 million.
483211	Inland Water Freight Transportation	750 employees.
487210	Scenic & Sightseeing Transportation, Water	$7.5 million.
488330	Navigational Services to Shipping	$38.5 million.
488510	Freight Transportation Arrangement	$15 million.

The entities all exceed the SBA's small business standards for small businesses. Furthermore, these U.S. entities operate U.S.-flagged vessels and are not required to have pilots as required by 46 U.S.C. 9302.

In addition to the owners and operators of vessels affected by this proposed rule, there are three U.S. entities that would be affected by this proposed rule that receive revenue from pilotage services. These are the three pilot associations that provide and manage pilotage services within the Great Lakes districts. Two of the associations operate as partnerships, and one operates as a corporation. These associations are designated with the same NAICS industry classification and small-entity size standards described above, but they have fewer than 500 employees; combined, they have approximately 65 employees in total, and therefore, they are designated as small entities. We expect no adverse effect on these entities from this proposed rule because all associations would receive enough revenue to balance the projected expenses associated with the projected number of bridge hours (time on task) and pilots.

We did not find any small not-for-profit organizations that are independently owned and operated and are not dominant in their fields that would be impacted by this proposed rule. We did not find any small governmental jurisdictions with populations of fewer than 50,000 people that would be impacted by this proposed rule. Based on this analysis, we conclude this proposed rulemaking, if promulgated, would not affect a substantial number of small entities.

Therefore, we certify under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES**. In your comment, explain why you think it qualifies, and how and to what degree this proposed rule would economically affect it.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult Mr. Brian Rogers, Commandant (CG–WWM–2), Coast Guard; telephone 202–372–1535, email *Brian.Rogers@uscg.mil,* or fax 202–372–1914. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

D. Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). This proposed rule would not change the burden in the collection currently approved by OMB under OMB Control Number 1625–0086, Great Lakes Pilotage Methodology.

E. Federalism

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

Congress directed the Coast Guard to establish ''rates and charges for pilotage services.'' *See* 46 U.S.C. 9303(f). This regulation is issued pursuant to that statute and is preemptive of State law as specified in 46 U.S.C. 9306. Under 46 U.S.C. 9306, a ''State or political subdivision of a State may not regulate or impose any requirement on pilotage on the Great Lakes.'' As a result, States or local governments are expressly prohibited from regulating within this category. Therefore, this proposed rule is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

While it is well settled that States may not regulate in categories in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, the Coast Guard recognizes the key role that State and local governments may have in making regulatory determinations. Additionally, for rules with implications and preemptive effect, Executive Order 13132 specifically directs agencies to consult with State and local governments during the rulemaking process. If you believe this rule has implications for federalism under Executive Order 13132, please contact the person listed in the **FOR FURTHER INFORMATION** section of this preamble.

F. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531–1538, requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or Tribal Government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Although this

proposed rule would not result in such an expenditure, we do discuss the effects of this proposed rule elsewhere in this preamble.

G. Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630 (Governmental Actions and Interference with Constitutionally Protected Property Rights).

H. Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988 (Civil Justice Reform) to minimize litigation, eliminate ambiguity, and reduce burden.

I. Protection of Children

We have analyzed this proposed rule under Executive Order 13045 (Protection of Children from Environmental Health Risks and Safety Risks). This proposed rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

J. Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

K. Energy Effects

We have analyzed this proposed rule under Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use). We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy, and the Administrator of OMB's Office of Information and Regulatory Affairs has not designated it as a significant energy action.

L. Technical Standards

The National Technology Transfer and Advancement Act, codified as a note to 15 U.S.C. 272, directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies. This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

M. Environment

We have analyzed this proposed rule under Department of Homeland Security (DHS) Directive 023–01, Revision (Rev) 01, *Implementation of the National Environmental Policy Act* [DHS Instruction Manual 023–01 (series)] and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. A preliminary Record of Environmental Consideration supporting this determination is available in the docket where indicated under the ''Public Participation and Request for Comments'' section of this preamble. This proposed rule meets the criteria for categorical exclusion (CATEX) under paragraph A3 of table 1, particularly subparts (a), (b), and (c) in Appendix A of DHS Directive 023–01(series). CATEX A3 pertains to promulgation of rules and procedures that are: (a) Strictly administrative or procedural in nature; (b) that implement, without substantive change, statutory or regulatory requirements; or (c) that implement, without substantive change, procedures, manuals, and other guidance documents. This proposed rule adjusts base pilotage rates and surcharges for administering the 2019 shipping season in accordance with applicable statutory and regulatory mandates, and also proposes a technical change to the Great Lakes pilotage ratemaking methodology. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects

46 CFR Part 401

Administrative practice and procedure, Great Lakes, Navigation (water), Penalties, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 404

Great Lakes, Navigation (water), Seamen.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 46 CFR parts 401 and 404 as follows:

PART 401—GREAT LAKES PILOTAGE REGULATIONS

■ 1. The authority citation for part 401 continues to read as follows:

Authority: 46 U.S.C. 2103, 2104(a), 6101, 7701, 8105, 9303, 9304; Department of Homeland Security Delegation No. 0170.1(II)(92.a), (92.d), (92.e), (92.f).

■ 2. Amend § 401.405 by revising paragraph (a) to read as follows:

§ 401.405 Pilotage rates and charges

(a) The hourly rate for pilotage service on—

(1) The St. Lawrence River is $698;

(2) Lake Ontario is $492;

(3) Lake Erie is $530;

(4) The navigable waters from Southeast Shoal to Port Huron, MI is $632;

(5) Lakes Huron, Michigan, and Superior is $304; and

(6) The St. Mary's River is $602.

* * * * *

PART 404—GREAT LAKES PILOTAGE RATEMAKING

■ 3. The authority citation for part 404 continues to read as follows:

Authority: 46 U.S.C. 2103, 2104(a), 9303, 9304; Department of Homeland Security Delegation No. 0170.1(II)(92.a), (92.f)

§ 404.104 [Amended]

■ 4. Amend § 404.104(c) by removing the reference to § 404.103(d) and adding in its place a reference to § 404.103.

Dated: October 11, 2018.

Jennifer F. Williams,

Captain, U.S. Coast Guard, Acting Assistant Commandant for Prevention Policy .

[FR Doc. 2018–22513 Filed 10–16–18; 8:45 am]

BILLING CODE 9110–04–P

Notices

Federal Register
Vol. 83, No. 201
Wednesday, October 17, 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

Office of Partnerships and Public Engagement (OPPE); Advisory Committee on Beginning Farmers and Ranchers—Solicitation for Nominations

AGENCY: USDA.

ACTION: Solicitation for applications.

SUMMARY: Pursuant to the Federal Advisory Committee Act, notice is hereby given that U.S. Department of Agriculture (USDA) is soliciting nominations and applications to serve on the Advisory Committee on Beginning Farmers and Ranchers (the ''Committee''). Applications and nomination packages can be downloaded at the link below: *https://www.ocio.usda.gov/document/ad-755.*

DATES: Consideration will be given to nominations received on or before November 1, 2018.

FOR FURTHER INFORMATION CONTACT: Mrs. Kenya Nicholas, Designated Federal Official, USDA–OPPE, 1400 Independence Avenue SW, Room 520–A, Washington, DC 20250–0601; Telephone (202) 720–6350; Fax (202) 720–7704; Email: *kenya.nicholas@osec.usda.gov.*

ADDRESSES: Nomination packages may be sent by postal mail or commercial delivery to: Mrs. Kenya Nicholas, Designated Federal Official, USDA OPPE, 1400 Independence Avenue SW, Room 520–A, Washington, DC 20250–0601 or faxed to (202) 720–7704.

SUPPLEMENTARY INFORMATION: On May 31, 2017, we published in the **Federal Register** (FR DOC# 2017–11214, Pages 24934–24935) a Notice of Solicitation for Nominations. Applications were required to be received on or before June 15, 2017. Previous applicants do not need to reapply.

We are soliciting nominations from interested organizations and individuals from among ranching and farming producers (industry), related government, State, and Tribal agricultural agencies, academic institutions, commercial banking entities, trade associations, and related nonprofit enterprises. The Committee will meet and discuss beginning farmer and rancher policy and program issues and collaborate to make recommendations to the Secretary on matters broadly affecting new farmers and ranchers. The membership term shall not exceed 2 years from the date of appointment. The Secretary may also appoint others as deemed necessary and appropriate to fulfill the Committee charter. An organization may nominate individuals from within or outside its membership; alternatively, an individual may nominate herself or himself. Nomination packages should include a nomination form along with a cover letter or resume that documents the nominee's background and experience.

The Secretary will fill 20 vacancies from among those organizations and individuals solicited, in order to obtain the broadest possible representation on the Committee. Equal opportunity practices, in line with the USDA policies, will be followed in all appointments to the Committee. To ensure that the recommendations of the Committee have taken into account the needs of the diverse groups served by the Department, membership should include, to the extent practicable, individuals with demonstrated ability to represent minorities, women, and persons with disabilities.

Signed in Washington, DC, this 13th day of September, 2018.

Christian Obineme,

Deputy Director, Office of Partnerships and Public Engagement.

[FR Doc. 2018–22146 Filed 10–16–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

October 11, 2018.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by November 16, 2018 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725 17th Street NW, Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Food Safety and Inspection Service

Title: Food Defense Vulnerability Questionnaire.

OMB Control Number: 0583–New.

Summary of Collection: The Food Safety and Inspection Service (FSIS) has been delegated the authority to exercise the functions of the Secretary as provided in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*), the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 *et seq.*), and the Egg Products Inspection Act (EPIA) (21 U.S.C. 1031 *et seq.*). These statutes mandate that FSIS protect the public by

ensuring that meat, poultry, and egg products are safe, wholesome, unadulterated, and properly labeled and packaged. FSIS intends to collect information from food industry and academic experts on vulnerabilities and research activities in the areas of food defense for FSIS-regulated food products.

Need and Use of the Information: FSIS will collection information using a series of questionnaires to food industry and academic experts on vulnerabilities and research activities in food defense for FSIS-regulated food products.

Description of Respondents: Business or other for-profit.

Number of Respondents: 170.

Frequency of Responses: Reporting: On Occasion.

Total Burden Hours: 113.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2018–22521 Filed 10–16–18; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Office of Partnerships and Public Engagement (OPPE); Advisory Committee on Minority Farmers and Ranchers Request for Nominations

AGENCY: Office of Advocacy and Outreach, USDA.

ACTION: Solicitation for applications.

SUMMARY: We are giving notice that U.S. Department of Agriculture (USDA) is soliciting nominations and applications to serve on the Advisory Committee on Minority Farmers and Ranchers (the ''Committee''). Interested persons must submit applications and nomination packages which can be downloaded at the link below: *https://www.ocio.usda.gov/document/ad-755*.

DATES: Consideration will be given to nominations received on or before November 1, 2018.

FOR FURTHER INFORMATION CONTACT: Mrs. Kenya Nicholas, Designated Federal Official, USDA OPPE, 1400 Independence Avenue SW, Room 520–A, Washington, DC 20250–0601; Telephone (202) 720–6350; Fax (202) 720–7704; Email: *kenya.nicholas@osec.usda.gov.*

ADDRESSES: Nomination packages may be sent by postal mail or commercial delivery to: Mrs. Kenya Nicholas, Designated Federal Official, USDA OPPE, 1400 Independence Avenue SW, Room 520–A, Washington, DC 20250–0601. Nomination packages may also be faxed to (202) 720–7704.

SUPPLEMENTARY INFORMATION: On March 7, 2017, we published in the **Federal Register** (FR DOC# 2017–11216, Page 25224) a Notice of Solicitation for Nominations. Applications were required to be received on or before June 16, 2017. Previous applicants do not need to reapply.

We are soliciting nominations from socially disadvantaged farming and ranching producers; civil rights professionals; private nonprofit organizations that support socially disadvantaged producers; and higher education institutions that work with socially disadvantaged producers. The membership term shall not exceed 2 years from the date of appointment. The Secretary may also appoint others as deemed necessary and appropriate to fulfill the Committee charter. An organization may nominate individuals from within or outside its membership; alternatively, an individual may nominate herself or himself. Nomination packages should include a nomination form along with a cover letter or resume that documents the nominee's background and experience.

The Secretary will fill 15 vacancies from among those organizations and individuals solicited in order to obtain the broadest possible representation on the Committee. Equal opportunity practices, in line with the USDA policies, will be followed in all appointments to the Committee. To ensure that the recommendations of the Committee have taken into account the needs of the diverse groups served by the Department, membership should include, to the extent practicable, individuals with demonstrated ability to represent minorities, women, and persons with disabilities.

Signed in Washington, DC, this 13th day of September, 2018.

Christian Obineme,

Deputy Director, Office of Partnerships and Public Engagement.

[FR Doc. 2018–22149 Filed 10–16–18; 8:45 am]

BILLING CODE 3410–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2017–0097]

Texas A&M AgriLife Research; Determination of Nonregulated Status of Cotton Genetically Engineered for Ultra-low Gossypol Levels in the Cottonseed

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public of our determination that cotton designated as event TAM66274, which has been genetically engineered for ultra-low gossypol levels in the cottonseed, is no longer considered a regulated article under our regulations governing the introduction of certain genetically engineered organisms. Our determination is based on our evaluation of data submitted by Texas A&M AgriLife Research in its petition for a determination of nonregulated status, our analysis of available scientific data, and comments received from the public in response to our previous notices announcing the availability of the petition for nonregulated status and its associated environmental assessment and plant pest risk assessment. This notice also announces the availability of our written determination and finding of no significant impact.

DATES: This change in regulatory status will be recognized October 17, 2018.

ADDRESSES: You may read the documents referenced in this notice and the comments we received at *http://www.regulations.gov/#!docketDetail;D=APHIS-2017-0097* or in our reading Room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 7997039 before coming.

Supporting documents are also available on the APHIS website at *http://www.aphis.usda.gov/biotechnology/petitions_table_pending.shtml* under APHIS Petition 17–292–01p.

FOR FURTHER INFORMATION CONTACT: Dr. John Turner, Director, Environmental Risk Analysis Programs, Biotechnology Regulatory Services, APHIS, 4700 River Road Unit 147, Riverdale, MD 20737–1236; (301) 851–3954, email: *john.t.turner@aphis.usda.gov.* To obtain copies of the supporting documents for this petition, contact Ms. Cindy Eck at (301) 851–3892, email: *cynthia.a.eck@aphis.usda.gov.*

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340, ''Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests,'' regulate, among other things, the introduction (importation, interstate movement, or release into the environment) of

organisms and products altered or produced through genetic engineering that are plant pests or that there is reason to believe are plant pests. Such genetically engineered (GE) organisms and products are considered ''regulated articles.''

The regulations in § 340.6(a) provide that any person may submit a petition to the Animal and Plant Health Inspection Service (APHIS) seeking a determination that an article should not be regulated under 7 CFR part 340. APHIS received a petition (APHIS Petition Number 17–292–01p) from Texas A&M AgriLife Research of College Station, TX (Texas A&M), seeking a determination of nonregulated status of cotton (*Gossypium hirsutum*) designated as event TAM66274, which has been genetically engineered for ultra-low gossypol levels in the cottonseed. The Texas A&M petition states that information collected during field trials and laboratory analyses indicates that TAM66274 cotton is not likely to be a plant pest and therefore should not be a regulated article under APHIS' regulations in 7 CFR part 340.

According to our process [1] for soliciting public comment when considering petitions for determinations of nonregulated status of GE organisms, APHIS accepts written comments regarding a petition once APHIS deems it complete. In a notice [2] published in the **Federal Register** on December 5, 2017 (82 FR 57426–57427, Docket No. APHIS–2017–0097), APHIS announced the availability of the Texas A&M petition for public comment. APHIS solicited comments on the petition for 60 days ending on February 5, 2018, in order to help identify potential environmental and interrelated economic issues and impacts that APHIS may determine should be considered in our evaluation of the petition.

APHIS received 47 comments on the petition. Of those, 44 were supportive, two opposed, and one was not related to the petition.

APHIS decided, based on its review of the petition and its evaluation and analysis of the comments received during the 60-day public comment period on the petition, that the petition involves a GE organism that raises substantive new issues. According to our public review process for such petitions (see footnote 1), APHIS is following Approach 2, where we first solicit written comments from the public on a draft environmental assessment (EA) and a draft plant pest risk assessment (PPRA) for a 30-day comment period through the publication of a **Federal Register** notice. Then, after reviewing and evaluating the comments on the draft EA and the draft PPRA and other information, APHIS revises the draft PPRA as necessary and prepares a final EA and, based on the final EA, a National Environmental Policy Act (NEPA) finding document (either a finding of no significant impact (FONSI) or a notice of intent to prepare an environmental impact statement). If a FONSI is reached, APHIS furnishes a response to the petitioner, either approving or denying the petition. APHIS also publishes a notice in the **Federal Register** announcing the regulatory status of the GE organism and the availability of APHIS' final EA, PPRA, FONSI, and our regulatory determination.

APHIS sought public comment on a draft EA and a draft PPRA from August 1, 2018, to August 31, 2018.[3] APHIS solicited comments on the draft EA, the draft PPRA, and whether the subject cotton is likely to pose a plant pest risk. APHIS received two comments on the petition, both of which supported a decision of nonregulated status for event TAM66274 cotton.

National Environmental Policy Act

After reviewing and evaluating the comments received during the comment period on the draft EA and draft PPRA and other information, APHIS has prepared a final EA. The EA has been prepared to provide the public with documentation of APHIS' review and analysis of any potential environmental impacts associated with the determination of nonregulated status of cotton designated as event TAM66274. The EA was prepared in accordance with: (1) NEPA, as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372). Based on our EA, the response to public comments, and other pertinent scientific data, APHIS has reached a FONSI with regard to the preferred alternative identified in the EA (to make a determination of nonregulated status of cotton designated as event TAM66274).

Determination

Based on APHIS' analysis of field and laboratory data submitted by Texas A&M, references provided in the petition, peer-reviewed publications, information analyzed in the EA, the PPRA, comments provided by the public, and information provided in APHIS' response to those public comments, APHIS has determined that cotton designated as event TAM66274 is unlikely to pose a plant pest risk and therefore is no longer subject to our regulations governing the introduction of certain GE organisms.

Copies of the signed determination document, PPRA, final EA, FONSI, and response to comments, as well as the previously published petition and supporting documents, are available as indicated in the **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT** sections of this notice.

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 10th day of October 2018.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2018–22545 Filed 10–16–18; 8:45 am]

BILLING CODE 3410–34–P

[1] On March 6, 2012, we published in the **Federal Register** (77 FR 13258–13260, Docket No. APHIS–2011–0129) a notice describing our process for soliciting public comments and information when considering petitions for determinations of nonregulated status for GE organisms (see *http://www.regulations.gov/#!docketDetail;D=APHIS-2011-0129*).

[2] To view the notice, the petition, and the comments we received, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2017-0097.*

[3] 83 FR 37459–37460.

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Connecticut Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a meeting of the Connecticut Advisory Committee to the Commission will convene by conference call at 12:00 p.m. (EST) on Wednesday, November 14, 2018. The purpose of the meeting is project planning and decision-making on next steps.

DATES: Wednesday, November 14, 2018 at 12:00 p.m. (EST). Public Call-In Information: Conference call-in number: 1–877–260–1479 and conference call 5634706.

FOR FURTHER INFORMATION CONTACT: Evelyn Bohor at *ero@usccr.gov* or by phone at 202–376–7533.

SUPPLEMENTARY INFORMATION: Interested members of the public may listen to the discussion by calling the following toll-free conference call-in number: 1–877–260–1479 and conference call 5634706. Please be advised that before placing them into the conference call, the conference call operator will ask callers to provide their names, their organizational affiliations (if any), and email addresses (so that callers may be notified of future meetings). 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 conference call-in number.

Persons with hearing impairments may also follow the discussion by first calling the Federal Relay Service at 1–800–977–8339 and providing the operator with the toll-free conference call-in number: 1–877–260–1479 and conference call 5634706.

Members of the public are invited to make statements during the open comment period of the meeting or submit written comments. The comments must be received in the regional office approximately 30 days after each scheduled meeting. Written comments may be mailed to the Eastern Regional Office, U.S. Commission on Civil Rights, 1331 Pennsylvania Avenue, Suite 1150, Washington, DC 20425, faxed to (202) 376–7548, or emailed to Evelyn Bohor at *ero@usccr.gov.* Persons who desire additional information may contact the Eastern Regional Office at (202) 376–7533.

Records and documents discussed during the meeting will be available for public viewing as they become available at *https://gsageo.force.com/FACA/FACAPublicViewCommitteeDetails?id=a10t0000001gzlqAAA;* click the ''Meeting Details'' and ''Documents'' links. Records generated from this meeting may also be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meetings. Persons interested in the work of this advisory committee are advised to go to the Commission's website, *www.usccr.gov,* or to contact the Eastern Regional Office at the above phone numbers, email or street address.

Agenda: Wednesday, November 14, 2018 at 12:00 p.m. (EST)

- Roll Call.
- Project Planning.
- Open Comment.
- Adjourn.

Dated: October 12, 2018.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2018–22615 Filed 10–16–18; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Colorado Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of planning 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 Colorado Advisory Committee to the Commission will convene by conference call at 2:00 p.m. (MDT) on Friday, November 2, 2018. The purpose of the meeting is for project planning.

DATES: Friday, November 2, 2018, at 2:00 p.m. (MDT).

Public Call-In Information: Conference call number: 1–888–395–3237 and conference call ID: 1659256.

FOR FURTHER INFORMATION CONTACT: Evelyn Bohor, *ebohor@usccr.gov* or by phone at 303–866–1040.

SUPPLEMENTARY INFORMATION: Interested members of the public may listen to the discussion by calling the following toll-free conference call number: 1–888–395–3237 and conference call ID: 1659256.

Please be advised that, before being placed into the conference call, the conference call operator will ask callers to provide their names, their organizational affiliations (if any), and email addresses (so that callers may be notified of future meetings). 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 provided.

Persons with hearing impairments may also follow the discussion by first calling the Federal Relay Service at 1–800–877–8339 and providing the operator with the toll-free conference call number: 1–888–395–3237 and conference call 1659256.

Members of the public are invited to make statements during the open comment period of the meeting or submit written comments. The comments must be received in the regional office approximately 30 days after each scheduled meeting. Written comments may be mailed to the Rocky Mountain Regional Office, U.S. Commission on Civil Rights, 1961 Stout Street, Suite 13–201, Denver, CO 80294, faxed to (303) 866–1040, or emailed to Evelyn Bohor at *ebohor@usccr.gov.* Persons who desire additional information may contact the Rocky Mountain Regional Office at (303) 866–1040.

Records and documents discussed during the meeting will be available for public viewing as they become available at *https://gsageo.force.com/FACA/FACAPublicViewCommitteeDetails?id=a10t0000001gzksAAA*; click the ''Meeting Details'' and ''Documents'' links. Records generated from this meeting may also be inspected and reproduced at the Rocky Mountain Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee are advised to go to the Commission's website, *www.usccr.gov,* or to contact the Rocky Mountain Regional Office at the above phone number, email or street address.

Agenda: Friday, November 2, 2018; 2:00 (MDT)

I. Roll Call
II. Project Planning
III. Other Business
IV. Adjournment

Dated: October 12, 2018.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2018–22614 Filed 10–16–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

[Docket Number USBC–2018–0017]

Request for Comments on the Cross-Agency Priority Goal: Leveraging Data as a Strategic Asset: Phase 2

AGENCY: Department of Commerce.

ACTION: Notice and Request for Comments.

SUMMARY: In March 2018, President Trump launched the President's Management Agenda (PMA). It lays out a long-term vision for modernizing the Federal Government in key areas that will improve the ability of agencies to deliver mission outcomes, provide excellent service, and effectively steward taxpayer dollars on behalf of the American people. The PMA established a Cross-Agency Priority (CAP) goal of *Leveraging Data as a Strategic Asset* with an intended purpose of guiding development of a comprehensive long-term Federal Data

Strategy to grow the economy, increase the effectiveness of the Federal Government, facilitate oversight, and promote transparency (*https://www.performance.gov/CAP/CAP_goal_2.html*). This notice seeks comment on practices for Federal agencies to adopt in order to achieve this CAP goal.

A subsequent Request for Comments to be published in January 2019 will seek input on a year-one action plan for implementing the Federal Data Strategy.

DATES: Comments on this notice must be received by November 16, 2018.

ADDRESSES: Submit comments through either the Federal eRulemaking Portal or the Federal Data Strategy website at *https://strategy.data.gov.* Include the Docket ID and the phrase ''Leveraging Data as a Strategic Asset Phase 2 Comments'' at the beginning of your comments. Also indicate which questions described in the **SUPPLEMENTARY INFORMATION** of this notice are addressed in your comments. Comments will not be accepted by fax or paper delivery.

- *Federal eRulemaking Portal:* Go to *www.regulations.gov* to submit your comments electronically under Docket ID USBC–2018–0017. Information on using *regulations.gov,* including instructions for accessing documents, submitting comments, and viewing the docket, is available on the site under ''How to Use This Site.''
- *Privacy Note:* Comments and information submitted in response to this notice may be made available to the public through relevant websites. Therefore, commenters should only include in their comments information that they wish to make publicly available on the internet. Note that responses to this public comment request containing any routine notice about the confidentiality of the communication will be treated as public comments that may be made available to the public.

FOR FURTHER INFORMATION CONTACT: William Hawk, Economist, U.S. Census Bureau, *william.r.hawk@census.gov* or 301–763–0654.

SUPPLEMENTARY INFORMATION:

Purpose

The Under Secretary for Economic Affairs, performing the nonexclusive duties and functions of the Deputy Secretary of the U.S. Department of Commerce, along with the Federal Chief Information Officer, the Chief Statistician of the United States, and executives from the U.S. Small Business Administration and the White House Office of Science and Technology Policy, is charged with developing a comprehensive Federal Data Strategy under the President's Management Agenda CAP goal of *Leveraging Data as a Strategic Asset.* Under this goal, the Federal Government should leverage program, statistical, and mission-support data as a strategic asset to grow the economy, increase the effectiveness of the Federal Government, facilitate oversight, and promote transparency. The Federal Government's role in collecting and disseminating data is rooted in the U.S. Constitution. Advances in technology have transformed the production and use of data across society, business, and government. The Federal Government needs a robust, integrated approach to creating, acquiring, using, and disseminating data to deliver on mission, serve customers, and steward resources while respecting privacy and confidentiality.

The Federal Data Strategy is currently under development and, by the spring of 2019, will set forth principles, practices, and a year-one action plan to deliver a more consistent approach to federal data stewardship, access, and use. The principles are a framework for agencies, while the practices are actionable, yet aspirational, goals for a 5- to 10-year time horizon, and the action steps will be strategically chosen activities for agencies to implement the practices in any given year. The year-one action plan, with initial action steps, will begin in 2019 and will guide agencies in their data stewardship and information management responsibilities.

Stakeholder engagement is critical to developing a viable and sustainable Federal Data Strategy. This **Federal Register** Notice is the second of three notices and requests for comment to seek public input on the development of the strategy. The Department of Commerce published the first of these notices in the **Federal Register** (83 FR 30113) on June 27, 2018. The notice included a set of ten draft principles for a comprehensive data strategy and asked the public to ''review and provide feedback on their clarity, appropriateness, completeness, and potential duplications.'' Comments were also requested on practices related to key aspects of the Federal Data Strategy, on mechanisms for stakeholder engagement, and on use cases, or real-world examples, that leverage Federal Government data for the benefit of the public. Comments were also submitted through the Federal Data Strategy website. A total of 237 comments were received, with almost 100 comments related to the draft principles. Based on comments received, the data strategy team revised the principles, which are available at *https://strategy.data.gov.*

This request for comments solicits stakeholder feedback on the next products in the development of the federal data strategy: draft practices for the federal data strategy. Feedback will also be accepted through the Federal Data Strategy website at *https://strategy.data.gov.*

Request for Comments

The draft practices are based on the work of the four Federal Data Strategy working groups, each centered on a specific strategic area: Enterprise Data Governance; Decision Making and Accountability; Access, Use, and Augmentation; and Commercialization, Innovation, and Public Use. The working groups are teams of approximately 10 Federal Data Fellows, selected for their multidisciplinary experience and expertise in federal data.

The working groups conducted research on practices, reviewed relevant Federal policies, such as OMB Circular A–130, *Managing Information as a Strategic Resource,* and incorporated public and agency comments, including information about use cases provided in response to the June 27 **Federal Register** Notice (83 FR 30113). The work of the separate groups was synthesized into 47 draft practices, which are available at *https://strategy.data.gov.*

The Federal Data Strategy will apply to all Executive Branch agencies with responsibilities for information management and will guide them in data collection and stewardship. The strategy will be a point of guidance for actions across the data lifecycle and will inform and guide actions for the full spectrum of data assets, including:

- *Program data:* Data generated in carrying out the administration of a government program or mission, such as processing benefit applications, tracking services received, monitoring the weather, or mapping oceans. These data can relate to individuals, businesses, and other institutions, as well as the environment and scientific phenomena.
- *Statistical data:* Data used to describe, estimate, or analyze the characteristics and activities of groups, without identifying the individuals or organizations that constitute such groups, such as for research and evaluation.
- Mission-support data: Program data focused on internal government operations, such as government spending, performance, or personnel data, that are common across government.

The practices are designed to inform agency actions on a regular basis, to be

continually relevant, and to be sufficiently general so as to broadly apply at all federal agencies and across all missions. The practices represent aspirational goals that, when fully realized, will enable agencies, practitioners, and policymakers to improve the government's approach to data stewardship and leverage data to create value.

The draft practices are grouped according to five broad objectives that begin to operationalize five corresponding objectives.

- Govern and Manage Data as a Strategic Asset
- Protect and Secure Data
- Promote Efficient Use of Data Assets
- Build a Culture that Values Data as an Asset
- Honor Stakeholder Input and Leverage Partners

In addition to applying across government, the strategy and its practices apply across the data lifecycle, which can be depicted in six stages:

1. Creation, collection, or acquisition;
2. processing;
3. access;
4. use;
5. dissemination; and
6. storage and disposition.

See *https://strategy.data.gov* for more information about how the draft practices pertain to each of those stages.

The draft practices will be revised and further developed in response to public and agency comments. Specifically, comments are requested on the following:

1. What framework(s) for organizing or classifying the practices would be most useful to Federal practitioners and other key stakeholders? For example, should they be classified according to whether they pertain to data creation, collection, or acquisition; processing; access; use; dissemination; and storage and disposition?

2. List and describe any additional practices relevant to data creation, collection, acquisition, processing, access, use, dissemination, storage, and disposition that are not included in the draft practices.

3. Identify any draft practices that should be omitted and explain why.

4. Provide any necessary edits to the practices to ensure that they effectively identify objectives, outcomes, or goals and are helpful to a practitioners and data policymakers.

5. Please provide examples of how Federal, state, local, or tribal government agencies have successfully implemented a particular practice.

6. Please provide specific action steps that should be associated with a particular practice.

For guidance in proposing action steps, use the following as examples of specific practices and associated action steps. These examples are provided for guidance only.

- Practice: Prioritize Data Security

Example Action Steps

1. Leverage existing standards for comprehensive and high quality data management.

2. Define, implement, and maintain formal expectations throughout government for data oversight and transparency.

- Practice: Connect Federal Spending to Outcomes

Example Action Steps

1. Publish interactive reports with spending, performance, and mission-support data that enable the public to interact with the data and create customizable tables and report. These interactive charts and graphics should be embedded in Federal websites such as *USAspending.gov* and *performance.gov.*

2. Standardize reporting data for federal grants to help make the data more accessible and useful.

Guidance for Submitting Documents

This guidance for submitting documents is offered to facilitate the analysis and full consideration of the comments. If responding on behalf of an organization or agency, please include the name and address of your institution or affiliation, and your name, title, email addresses, and telephone number. No specific information about you is required, other than that necessary for self-identification, for full consideration of the comment.

Comments should be informative for the Federal Data Strategy. Comments on issues not related to the strategy will not be considered.

Please submit comments through the **Federal Register** portal at *www.regulations.gov* or through the Federal Data Strategy website at *https://strategy.data.gov.* Please submit your comment once using your preferred feedback platform.

Please specify the number of the question to which your comment applies. If possible, structure your comments on specific practices so that they refer to the number of the relevant practice. If you have multiple comments on one practice, please organize them together by practice number.

If possible, provide comments in a Microsoft Word or plain text file and avoid using footnotes, end notes, images, graphics, or tables. If you refer to reference material (documents, websites, research), please quote or paraphrase the specific content from referenced material.

Dated: October 10, 2018.

Karen Dunn Kelley,

Under Secretary for Economic Affairs, Performing the Nonexclusive Duties and Functions of the Deputy Secretary of Commerce, Department of Commerce.

[FR Doc. 2018–22490 Filed 10–16–18; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

Meeting of Bureau of Economic Analysis Advisory Committee

AGENCY: Bureau of Economic Analysis, Economics and Statistics Administration, Department of Commerce.

ACTION: Notice of public meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, we are announcing a meeting of the Bureau of Economic Analysis Advisory Committee. The meeting will address proposed improvements to BEA's economic accounts and provide an update on recent statistical developments.

DATES: Friday, November 9, 2018. The meeting will begin at 9:00 a.m. and adjourn at 3:30 p.m.

ADDRESSES: The meeting will take place at the Suitland Federal Center, which is located at 4600 Silver Hill Road, Suitland, MD 20746.

FOR FURTHER INFORMATION CONTACT: Gianna Marrone, Program Analyst, U.S. Department of Commerce, Bureau of Economic Analysis, Suitland, MD 20746; telephone number: (301) 278–9798.

SUPPLEMENTARY INFORMATION: The Committee was established September 2, 1999. The Committee advises the Director of BEA on matters related to the development and improvement of BEA's national, regional, industry, and international economic accounts, with a focus on new and rapidly growing areas of the U.S. economy. The committee provides recommendations from the perspectives of the economics profession, business, and government.

Public Participation: This meeting is open to the public. Because of security procedures, anyone planning to attend the meeting must contact Gianna Marrone of BEA at (301) 278–9798 in advance. The meeting is physically accessible to people with disabilities. Requests for foreign language interpretation or other auxiliary aids

should be directed to Gianna Marrone at (301) 278–9798.

Dated: September 17, 2018.

Brian C. Moyer,

Director, Bureau of Economic Analysis.

[FR Doc. 2018–22547 Filed 10–16–18; 8:45 am]

BILLING CODE 3510–06–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–39–2018]

Foreign-Trade Zone (FTZ) 106—Oklahoma City, Oklahoma; Authorization of Production Activity; Eastman Kodak Company (Printing Flexographic Plates), Weatherford, Oklahoma

On June 13, 2018, Eastman Kodak Company submitted a notification of proposed production activity to the FTZ Board for its facility within Subzone 106F, in Weatherford, Oklahoma.

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 29541, June 25, 2018). On October 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: October 11, 2018.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2018–22583 Filed 10–16–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–63–2018]

Foreign-Trade Zone 142—Salem/Millville, New Jersey; Application for Reorganization and Expansion Under Alternative Site Framework

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the South Jersey Port Corporation, grantee of FTZ 142, requesting authority to reorganize and expand the zone under the alternative site framework (ASF) adopted by the FTZ Board (15 CFR Sec. 400.2(c)). The ASF is an option for grantees for the establishment or reorganization of zones and can permit significantly greater flexibility in the designation of new subzones or ''usage-driven'' FTZ sites for operators/users located within a grantee's ''service area'' in the context of the FTZ Board's standard 2,000-acre activation limit for a zone. The application was submitted pursuant to the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally docketed on October 11, 2018.

FTZ 142 was approved by the FTZ Board on August 25, 1987 (Board Order 358, 52 FR 33855, September 8, 1987).

The current zone includes the following sites: *Site 1* (95 acres)—Port of Salem complex, Salem; *Site 2* (10 acres)—Walnut Street warehouse complex, Salem; and, *Site 3* (144 acres)—Millville Municipal Airport Industrial Park, Millville.

The grantee's proposed service area under the ASF would be the Counties of Mercer, Burlington, Camden, Gloucester, Salem, Cumberland and Cape May, New Jersey, as described in the application. If approved, the grantee would be able to serve sites throughout the service area based on companies' needs for FTZ designation. The application indicates that the proposed service area is within and adjacent to the Philadelphia Customs and Border Protection port of entry.

The applicant is requesting authority to reorganize and expand its existing zone to include all of the existing sites as ''magnet'' sites. The applicant is also requesting approval of the following magnet site: *Proposed Site 4* (1,630 acres)—Repauno/Greenwich rail and port terminal complex, 200 North Repauno Avenue, Gibbstown. The application would have no impact on FTZ 142's previously authorized subzones.

In accordance with the FTZ Board's regulations, Kathleen Boyce of the FTZ Staff is designated examiner to evaluate and analyze the facts and information presented in the application and case record and to report findings and recommendations to the FTZ Board.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is December 17, 2018. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to December 31, 2018.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's website, which is accessible via *www.trade.gov/ftz.* For further information, contact Kathleen Boyce at *Kathleen.Boyce@trade.gov* or (202) 482–1346.

Dated: October 11, 2018.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2018–22603 Filed 10–16–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–165–2018]

Foreign-Trade Zone 294—Western Kentucky; Application for Subzone Mayfield Consumer Products Mayfield and Hickory, Kentucky

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the Paducah McCracken County Riverport Authority, grantee of FTZ 294, requesting subzone status for the facilities of Mayfield Consumer Products, located in Mayfield and Hickory, Kentucky. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the FTZ Board (15 CFR part 400). It was formally docketed on October 11, 2018.

The proposed subzone would consist of the following sites: *Site 1* (14.4 acres) 112 Industrial Drive, Mayfield; *Site 2* (3.47 acres) 1102 Fulton Road, Mayfield; and, *Site 3* (25 acres) 22 Rifle Trail, Hickory Industrial Park, Hickory. A notification of proposed production activity has been submitted and will be published separately for public comment. The proposed subzone would be subject to the existing activation limit of FTZ 294.

In accordance with the FTZ Board's regulations, Elizabeth Whiteman of the FTZ Staff is designated examiner to review the application and make recommendations to the Executive Secretary.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is November 26, 2018. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to December 11, 2018.

A copy of the application will be available for public inspection at the Office of the Executive Secretary,

Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's website, which is accessible via *www.trade.gov/ftz.*

For further information, contact Elizabeth Whiteman at *Elizabeth.Whiteman@trade.gov* or (202) 482–0473.

Dated: October 11, 2018.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2018–22582 Filed 10–16–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–62–2018]

Foreign-Trade Zone (FTZ) 294—Western Kentucky; Notification of Proposed Production Activity; Mayfield Consumer Products (Candles); Mayfield and Hickory, Kentucky

The Paducah McCracken County Riverport Authority, grantee of FTZ 294, submitted a notification of proposed production activity to the FTZ Board on behalf of Mayfield Consumer Products (MCP), located in Mayfield and Hickory, Kentucky. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on October 10, 2018.

The applicant has submitted a separate application for FTZ designation at the MCP facility under FTZ 294. The MCP facility is used for the production of candles. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status materials and components and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt MCP from customs duty payments on the foreign-status components used in export production. On its domestic sales, for the foreign-status materials/components noted below, MCP would be able to choose the duty rates during customs entry procedures that apply to filled jar candles (duty-free). MCP would be able to avoid duty on foreign-status components which become scrap/waste. Customs duties also could possibly be deferred or reduced on foreign-status production equipment.

The components and materials sourced from abroad include: Glass jars; tin lids; cardboard boxes; and, wood pulp inserts (duty rate ranges from duty-free to 6%). The request indicates that certain materials/components are subject to special duties under Section 301 of the Trade Act of 1974 (Section 301), depending on the country of origin. The applicable Section 301 decisions require subject merchandise to be admitted to FTZs in privileged foreign status (19 CFR 146.41).

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 November 26, 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 Elizabeth Whiteman at *Elizabeth.Whiteman@trade.gov* or (202) 482–0473.

Dated: October 11, 2018.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2018–22584 Filed 10–16–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–560–829]

Certain Uncoated Paper From Indonesia: Final Results of Countervailing Duty Administrative Review; 2015–2016

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

SUMMARY: The Department of Commerce (Commerce) determines that PT Anugrah Kertas Utama, PT Riau Andalan Kertas, APRIL Fine Paper Macao Commercial Offshore Limited, and their cross-owned affiliates (collectively ''APRIL''), exporters/producers of certain uncoated paper from Indonesia, received countervailable subsidies during the period June 29, 2015, through December 31, 2016.

DATES: Applicable October 17, 2018.

FOR FURTHER INFORMATION CONTACT: David Goldberger or Darla Brown, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4136 or 202–482–1791, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 10, 2018, Commerce published the *Preliminary Results* of this administrative review in the **Federal Register**.[1] We invited interested parties to comment on the *Preliminary Results.* On May 2, 2018, Commerce postponed the final results of review until October 9, 2018.[2] In July 2018, we received timely case and rebuttal briefs from APRIL, the Government of Indonesia, and the petitioners. Based on an analysis of the comments received, Commerce made changes to the subsidy rates determined for APRIL. The final subsidy rates are listed below in the ''Final Results of Administrative Review'' section.

Scope of the Order

The merchandise covered by the order is certain uncoated paper from Indonesia. A full description of the scope of the order is contained in the Issues and Decision Memorandum, which is hereby adopted by this notice.[3]

Analysis of Comments Received

All issues raised in interested parties' briefs are addressed in the Issues and Decision Memorandum accompanying this notice. A list of the issues raised by interested parties and to which we responded in the Issues and Decision Memorandum is provided in the Appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov* and in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be access directly at *http://*

[1] *See Certain Uncoated Paper from Indonesia: Preliminary Results of Countervailing Duty Administrative Review; 2015–2016,* 83 FR 15370 (April 10, 2018) (*Preliminary Results*).

[2] *See* Memorandum, ''Certain Uncoated Paper from Indonesia: Extension of Deadline for Final Results of 2015–2016 Countervailing Duty Administrative Review,'' dated May 2, 2018.

[3] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of 2015–2016 Countervailing Duty Administrative Review: Certain Uncoated Paper from Indonesia,'' dated concurrently with this notice (Issues and Decision Memorandum).

enforcement.trade.gov/frn/. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Changes Since the Preliminary Results

Based on the comments received from the interested parties, we made changes to our subsidy rate calculations. For a discussion of these issues, *see* the Issues and Decision Memorandum.

Methodology

Commerce conducted this review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found to be countervailable, we find that there is a subsidy, *i.e.,* a financial contribution from a government or public entity that gives rise to a benefit to the recipient, and that the subsidy is specific.[4] For a full description of the methodology underlying all of Commerce's conclusions, *see* the Issues and Decision Memorandum.

Final Results of Administrative Review

In accordance with section 777A(e) of the Act and 19 CFR 351.221(b)(5), we determine the following countervailable subsidy rates for 2015 and 2016:

Company	2015 *Ad Valorem* rate	2016 *Ad Valorem* rate
APRIL Fine Paper Macao Commercial Offshore Limited/PT Anugrah Kertas Utama/PT Riau Andalan Kertas/PT Intiguna Primatama/PT Riau Andalan Pulp & Paper/PT Esensindo Cipta Cemerlang/PT Sateri Viscose International/PT ITCI Hutani Manunggal	11.71%	5.13%

Assessment Rates

In accordance with 19 CFR 351.212(b)(2), Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, countervailing duties on all appropriate entries covered by this review. We intend to issue assessment instructions to CBP 15 days after the date of publication of the final results of this review.

Cash Deposit Requirements

Pursuant to section 751(a)(2)(C) of the Act, Commerce also intends to instruct CBP to collect cash deposits of estimated countervailing duties in the amount calculated for 2016. For all non-reviewed firms, we will instruct CBP to collect cash deposits at the most recent company-specific or all-others rate applicable to the company, as appropriate. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

These final results are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: October 9, 2018.

Gary Taverman,

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

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

[FR Doc. 2018–22633 Filed 10–16–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–601]

Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Continuation of the Antidumping Duty Order

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

SUMMARY: As a result of the determinations by the Department of Commerce (Commerce) and the International Trade Commission (ITC) that revocation of the antidumping duty order on tapered roller bearings and parts thereof, finished and unfinished (TRBs), from the People's Republic of China (China) would likely lead to a continuation or recurrence of dumping and material injury to an industry in the United States, Commerce is publishing a notice of continuation of the antidumping duty order.

DATES: Applicable October 17, 2018.

FOR FURTHER INFORMATION CONTACT: Andrew Medley, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401

[4] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4987.

SUPPLEMENTARY INFORMATION: On July 3, 2017, Commerce initiated, and the ITC instituted, the fourth sunset review of the antidumping duty order on TRBs from the PRC pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).[1] As a result of its review, Commerce determined that revocation of the antidumping duty order on TRBs from China would likely lead to a continuation or recurrence of dumping and, therefore, notified the ITC of the magnitude of the margins likely to prevail should the order be revoked.[2] On September 28, 2018, the ITC published its determination, pursuant to section 751(c) of the Act, that revocation of the antidumping duty order on TRBs from China would likely lead to a continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[3]

Scope of the Order

The products covered by the order are tapered roller bearings and parts thereof, finished and unfinished, from China; flange, take up cartridge, and hanger units incorporating tapered roller bearings; and tapered roller housings (except pillow blocks) incorporating tapered rollers, with or without spindles, whether or not for automotive use. These products are currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) item numbers 8482.20.00, 8482.91.00.50, 8482.99.15, 8482.99.45, 8483.20.40, 8483.20.80, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.80, 8708.99.80.15[4] and 8708.99.80.80.[5] Although the HTSUS item numbers are provided for convenience and customs purposes, the written description of the scope of the order and this review is dispositive.[6]

Continuation of the Order

As a result of these determinations by Commerce and the ITC that revocation of the antidumping duty order on TRBs would likely lead to a continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, Commerce hereby orders the continuation of the antidumping duty order on TRBs from China. U.S. Customs and Border Protection will continue to collect antidumping duty cash deposits at the rates in effect at the time of entry for all imports of subject merchandise. The effective date of the continuation of the order will be the date of publication in the **Federal Register** of this notice of continuation. Pursuant to section 751(c)(2) of the Act, Commerce intends to initiate the next five-year review of the order not later than 30 days prior to the fifth anniversary of the effective date of continuation.

Administrative Protective Order

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return/destruction or conversion to judicial protective order of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Failure to comply is a violation of the APO which may be subject to sanctions.

This five-year sunset review and this notice are in accordance with section 751(c) of the Act and published pursuant to section 777(i)(1) of the Act and 19 CFR 351.218(f)(4).

Dated: September 28, 2018.

Gary Taverman,

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

[FR Doc. 2018–22579 Filed 10–16–18; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Initiation of Five-Year (Sunset) Review,* 82 FR 30844 (July 3, 2017) (*Sunset Initiation*) and *Tapered Roller Bearings from China; Institution of a Five-Year Review,* 82 FR 30898 (July 3, 2017).

[2] *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of the Expedited Fourth Sunset Review of the Antidumping Duty Order,* 82 FR 51389 (November 6, 2017).

[3] *See* Tapered Roller Bearings from China: Investigation No. 731–TA–344 (Fourth Review), USITC Publication 4824 (September 2018), and *Tapered Roller Bearings from China,* 83 FR 49125 (September 28, 2018).

[4] Effective January 1, 2007, the HTSUS subheading 8708.99.8015 is renumbered as 8708.99.8115. *See* ITC publication entitled, ''Modifications to the Harmonized Tariff Schedule of the United States Under Section 1206 of the Omnibus Trade and Competitiveness Act of 1988,'' USITC Publication 3898 (December 2006) found at *www.usitc.gov.*

[5] Effective January 1, 2007, the HTSUS subheading 8708.99.8080 is renumbered as 8708.99.8180. *Id.*

[6] Subsequent to the issuance of the order, Commerce has issued numerous scope rulings. *See* Memorandum entitled ''Tapered Roller Bearings from the People's Republic of China: Final Scope Ruling on Blackstone OTR LLC and OTR Wheel Engineering, Inc.'s Wheel Hub Assemblies and TRBs,'' dated February 7, 2011 (finding Blackstone OTR LLC and OTR Wheel Engineering, Inc.'s wheel hub assemblies are within the scope of the order); Memorandum entitled, ''Tapered Roller Bearings from the People's Republic of China: Final Scope Ruling on New Trend Engineering Ltd.'s Wheel Hub Assemblies,'' dated April 18, 2011 (finding New Trend Engineering Limited's splined and non-splined wheel hub assemblies without antilock braking system (ABS) elements are included in the scope of the order and its wheel hub assemblies with ABS elements are also included in the scope of the order); Memorandum entitled ''Tapered Roller Bearings from the People's Republic of China Final Scope Determination on Bosda's Wheel Hub Assemblies,'' dated June 14, 2011 (finding Bosda International (USA) LLC's wheel hub assemblies are within the scope of the order); and Memorandum entitled ''Tapered Roller Bearings and Parts Thereof, finished and Unfinished, from the People's Republic of China—Final Scope Determination on DF Machinery's Agricultural Hub Units,'' dated August 3, 2011 (finding DF Machinery International, Inc.'s agricultural hub units are included in the scope of the order).

DEPARTMENT OF COMMERCE

International Trade Administration

Corporation for Travel Promotion Board of Directors

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Applications for membership.

SUMMARY: The Department of Commerce is again seeking applications from travel and tourism leaders from specific industries for membership on the Board of Directors (Board) of the Corporation for Travel Promotion (doing business as Brand USA). The purpose of the Board is to guide the Corporation for Travel Promotion on matters relating to the promotion of the United States as a travel destination and communication of travel facilitation issues, among other tasks. On July 19, 2018, the Department published in the **Federal Register** a ''Notice of an opportunity for travel and tourism industry leaders to apply for membership on the Board of Directors of the Corporation for Travel Promotion'' (83 FR 34112), announcing membership opportunities on the Board of Directors of the Corporation for Travel Promotion. The application period closed on August 17, 2018. The Department is now reopening the application period to solicit additional applications. This notice supplements the notice of July 19, 2018. Interested parties who have already applied in response to that **Federal Register** notice do not need to re-apply.

DATES: All applications must be received by the National Travel and Tourism Office by close of business on Friday, October 26, 2018.

ADDRESSES: Please submit application information by email to *CTPBoard@trade.gov.*

FOR FURTHER INFORMATION CONTACT: Julie Heizer, National Travel and Tourism Office, U.S. Department of Commerce, 1401 Constitution Avenue NW, MS10003, Washington, DC 20230; telephone: 202–482–0140; email: *CTPBoard@trade.gov.*

SUPPLEMENTARY INFORMATION: The Travel Promotion Act of 2009 (TPA) was signed into law on March 4, 2010 and was amended in July 2010 and December 2014. The TPA established the Corporation for Travel Promotion (the Corporation), as a non-profit corporation charged with the development and execution of a plan to (A) provide useful information to those interested in traveling to the United States; (B) identify and address perceptions regarding U.S. entry policies; (C) maximize economic and diplomatic benefits of travel to the United States through the use of various promotional tools; (D) ensure that international travel benefits all States and the District of Columbia, and (E) identify opportunities to promote tourism to rural and urban areas equally, including areas not traditionally visited by international travelers.

The Corporation is governed by a Board of Directors, consisting of 11 members with knowledge of international travel promotion or marketing, broadly representing various regions of the United States. The TPA directs the Secretary of Commerce (after consultation with the Secretary of Homeland Security and the Secretary of State) to appoint the Board of Directors for the Corporation.

On July 19, 2018, the Department published in the **Federal Register** a ''Notice of an opportunity for travel and tourism industry leaders to apply for membership on the Board of Directors of the Corporation for Travel Promotion'' (83 FR 34112), announcing membership opportunities on the Board of Directors of the Corporation for Travel Promotion. The application period closed on August 17, 2018. The Department is now reopening the application period to solicit additional applications. This notice supplements the notice of July 19, 2018. Interested parties who have already applied in response to that **Federal Register** notice do not need to re-apply.

At this time, the Department will be selecting four individuals with the appropriate expertise and experience from specific sectors of the travel and tourism industry to serve on the Board as follows:

(A) 1 shall have appropriate expertise and experience in the hotel accommodations sector;

(B) 1 shall have appropriate expertise and experience as an official of a city convention and visitors' bureau;

(C) 1 shall have appropriate expertise and experience in the restaurant sector; and

(D) 1 shall have appropriate expertise and experience as an official of a state tourism office.

To be eligible for Board membership, individuals must have international travel and tourism marketing experience, be a current or former chief executive officer, chief financial officer, or chief marketing officer or have held an equivalent management position. Additional consideration will be given to individuals who have experience working in U.S. multinational entities with marketing budgets, and/or who are audit committee financial experts as defined by the Securities and Exchange Commission (in accordance with 15 U.S.C. 7265). Individuals must be U.S. citizens, and in addition, cannot be federally registered lobbyists or registered as a foreign agent under the Foreign Agents Registration Act of 1938, as amended. Those selected for the Board must be able to meet the time and effort commitments of the Board.

Board members serve at the discretion of the Secretary of Commerce (who may remove any member of the Board for good cause). The terms of office of each member of the Board appointed by the Secretary shall be three (3) years. Board members can serve a maximum of two consecutive full three-year terms. Board members are not considered Federal government employees by virtue of their service as a member of the Board and will receive no compensation from the Federal government for their participation in Board activities. Members participating in Board meetings and events may be paid actual travel expenses and per diem by the Corporation when away from their usual places of residence.

Individuals who want to be considered for appointment to the Board should submit the following information by the Friday, October 26, 2018 deadline to the address listed in the **ADDRESSES** section above:

1. Name, title, and personal resume of the individual requesting consideration, including address, email address and phone number.

2. A brief statement of why the person should be considered for appointment to the Board. This statement should also address the individual's relevant international travel and tourism marketing experience and audit committee financial expertise, if any, and indicate clearly the sector or sectors enumerated above in which the individual has the requisite expertise and experience. Individuals who have the requisite expertise and experience in more than one sector can be appointed for only one of those sectors. Appointments of members to the Board will be made by the Secretary of Commerce.

3. An affirmative statement that the applicant is a U.S. citizen and further, is not required to register as a foreign agent under the Foreign Agents Registration Act of 1938, as amended.

Dated: October 12, 2018.

Julie P. Heizer,

Deputy Director, National Travel and Tourism Office.

[FR Doc. 2018–22580 Filed 10–16–18; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–092]

Mattresses From the People's Republic of China: Initiation of Less-Than-Fair-Value Investigation

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

DATES: Applicable October 9, 2018.

FOR FURTHER INFORMATION CONTACT: Stephen Bailey or Lilit Astvatsatrian at (202) 482–0193 or (202) 482–6412, respectively; AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Petition

On September 18, 2018, the U.S. Department of Commerce (Commerce) received an antidumping duty (AD) Petition concerning imports of mattresses from the People's Republic of China (China), filed in proper form on behalf of Corsicana Mattress Company, Elite Comfort Solutions, Future Foam Inc., FXI, Inc., Innocor, Inc., Kolcraft Enterprises Inc., Leggett & Platt, Incorporated, Serta Simmons Bedding, LLC, and Tempur Sealy International, Inc. (the petitioners).[1]

On September 25, 2018, October 2, and October 5, 2018, the petitioners filed responses to a supplemental questionnaire issued by Commerce and a request for revisions to their surrogate financial ratio calculation and scope, respectively.[2]

[1] *See* the petitioners' Letter, ''Mattresses from the People's Republic of China: Antidumping Duty Petition,'' dated September 18, 2018 (the Petition).

[2] *See* Commerce's Letter, ''Petition for the Imposition of Antidumping Duties on Imports of Mattresses from the People's Republic of China: Supplemental Questions,'' dated September 21, 2018; the petitioner's letter, ''Mattresses from the

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

Commerce finds that the petitioners filed the Petition on behalf of the domestic industry because the petitioners are interested parties as defined in section 771(9)(C) of the Act. Commerce also finds that the petitioners demonstrated sufficient industry support with respect to the initiation of the investigation that the petitioners are requesting.[3]

Period of Investigation

Because China is a non-market economy (NME) country, pursuant to 19 CFR 351.204(b)(1), the period of investigation (POI) is January 1, 2018, through June 30, 2018.

Scope of the Investigation

The product covered by this investigation is mattresses from China. For a full description of the scope of this investigation, *see* the Appendix to this notice.

Scope Comments

During our review of the Petition, we contacted the petitioners regarding the proposed scope to ensure that the scope language in the Petition is an accurate reflection of the products for which the domestic industry is seeking relief.[4] As a result, the scope of the Petition was modified to clarify the description of merchandise covered by the Petition. The description of the merchandise covered by this investigation, in the Appendix to this notice, reflects these clarifications.

As discussed in the preamble to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (scope).[5] Commerce will consider all scope comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determination. If scope comments include factual information,[6] all such factual information should be limited to public information. To facilitate preparation of the AD questionnaire, Commerce requests that all interested parties submit scope comments by 5:00 p.m. Eastern Time (ET) on October 29, 2018, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on November 8, 2018, which is 10 calendar days from the initial comments deadline.[7]

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

Filing Requirements

All submissions to Commerce must be filed electronically using Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS).[8] An electronically filed document must be received successfully in its entirety by the time and date that it is due. Documents exempted from the electronic submission requirements must be filed manually (*i.e.,* in paper form) with Enforcement and Compliance's APO/Dockets Unit, Room 18022, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, and stamped with the date and time of receipt by the applicable deadlines.

Comments on Product Characteristics

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

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. In order to consider the suggestions of interested parties in developing and issuing the AD questionnaire, all product characteristics comments must be filed by 5:00 p.m. ET on October 29, 2018, which is 20 calendar days from the signature date of this notice. Any rebuttal comments must be filed by 5:00 p.m. ET on November 8, 2018. All comments and submissions to Commerce must be filed electronically on the record of this investigation using ACCESS, as explained above.[9]

Determination of Industry Support for the Petition

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

People's Republic of China: Response to the Department of Commerce's September 21, 2018 Supplemental Questions,'' dated September 25, 2018 (Petition Supplement); Memorandum, ''Phone Conversation Regarding Surrogate Financial Ratio Calculations,'' dated October 2, 2018; the petitioner's letter, ''Mattresses from the People's Republic of China: Request for Revised Normal Value and Dumping Margin Calculations,'' dated October 2, 2018 (Second Supplement) and the petitioner's letter, ''Mattresses from the People's Republic of China: Modification to Scope Language,'' dated October 5, 2018 (Scope Supplement).

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

[4] *See* Petition Supplement at 3–5 and Scope Supplement at 1–3.

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

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

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

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

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

Section 771(4)(A) of the Act defines the ''industry'' as the producers, as a whole, of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,[10] they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.[11]

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

With regard to the domestic like product, the petitioners do not offer a definition of the domestic like product distinct from the scope of the Petition. Based on our analysis of the information submitted on the record, we have determined that mattresses, as defined in the scope, constitute a single domestic like product, and we have analyzed industry support in terms of that domestic like product.[12]

In determining whether the petitioners have standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the ''Scope of the Investigation,'' in the Appendix to this notice. To establish industry support, the petitioners provided their own shipments of the domestic like product in 2017, and compared this to the estimated total shipments of the domestic like product for the entire domestic industry.[13] Because total industry production data for the domestic like product for 2017 are not reasonably available to the petitioners, and the petitioners have established that shipments are a reasonable proxy for production data,[14] we have relied on the data the petitioners provided for purposes of measuring industry support.[15]

Our review of the data provided in the Petition, the Petition Supplement, and other information readily available to Commerce indicates that the petitioners have established industry support for the Petition.[16] First, the petitioners established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, Commerce is not required to take further action in order to evaluate industry support (*e.g.,* polling).[17] Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product.[18] Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.[19] Accordingly, Commerce determines that the Petition was filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

Commerce finds that the petitioners filed the Petition on behalf of the domestic industry because they are interested parties as defined in section 771(9)(C) of the Act, and they have demonstrated sufficient industry support with respect to the investigation that they are requesting that Commerce initiate.[20]

Allegations and Evidence of Material Injury and Causation

The petitioners allege that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at less than normal value (NV). In addition, the petitioners allege that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.[21]

The petitioners contend that the industry's injured condition is illustrated by a significant and increasing volume of subject imports, reduced market share, underselling and price depression or suppression, lost sales and revenues, and declines in the domestic industry's production, U.S. shipments, production-related workers, and financial performance.[22] We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.[23]

Allegations of Sales at Less Than Fair Value

The following is a description of the allegations of sales at less than fair value upon which Commerce based its decision to initiate this investigation. The sources of U.S. prices and data relating to NV are discussed in greater detail in the China AD Initiation Checklist.

Export Price

The petitioners based export price (EP) on an actual invoice price for mattresses produced in, and exported from, China and sold or offered for sale in the United States, and on the average unit value (AUV) of publicly available

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

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

[12] For a discussion of the domestic like product analysis, *see* Antidumping Duty Investigation Initiation Checklist: Mattresses from the People's Republic of China (China AD Initiation Checklist) at Attachment II, Analysis of Industry Support for the Antidumping Duty Petition Covering Mattresses from the People's Republic of China (Attachment II). This checklist is dated concurrently with, and hereby adopted by, this notice and is on file electronically via ACCESS. Access to documents filed via ACCESS is also available in the Central Records Unit, Room B8024 of the main Department of Commerce building.

[13] *See* Petition Supplement at 8–10 and Exhibits 3 through 6.

[14] *See* Volume I of the Petition at 5.

[15] *Id.* at 5; *see also* Volume II of the Petition at Exhibits 3 and 16; *see also* Petition Supplement at 8–10 and Exhibits 3 through 6. For further discussion, *see* China AD Initiation Checklist at Attachment II.

[16] *See* China AD Initiation Checklist at Attachment II.

[17] *See* section 732(c)(4)(D) of the Act; *see also* China AD Initiation Checklist at Attachment II.

[18] *See* China AD Initiation Checklist at Attachment II.

[19] *Id.*

[20] *Id.*

[21] *See* Volume I of the Petition at 16; *see also* Volume II of the Petition at Exhibit 10.

[22] *See* Volume I of the Petition at 1–3, 13, 16–31, *see also* Volume II of the Petition at Exhibits 3 and 10 through 20.

[23] *See* China AD Initiation Checklist at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping Duty Petition Covering Mattresses from the People's Republic of China.

import data.[24] No adjustments were made to the U.S. prices before comparing them to NV.[25]

Normal Value

Commerce considers China to be an NME country.[26] In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by Commerce. Therefore, we are continuing to treat China as an NME country for purposes of initiating this investigation. Accordingly, NV in China is appropriately based on FOPs valued in a surrogate market economy country, in accordance with section 773(c) of the Act.[27]

The petitioners claim that Mexico is an appropriate surrogate country for China because it is a market economy country that is at a level of economic development comparable to that of China and it is a significant producer of comparable merchandise.[28] The petitioners provided publicly available information from Mexico, including financial statements of a Mexican producer of mattresses, to value all FOPs.[29] Based on the information provided by the petitioners, we determine that it is appropriate to use Mexico as the primary surrogate country for initiation purposes.

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

FOPs

The petitioners asserted that information regarding the types and volumes of inputs that are consumed by Chinese companies in producing mattresses is not reasonably available to them; thus, the petitioners used the consumption rates of a U.S. mattress producer to estimate the Chinese manufacturers' FOPs.[30] The petitioners valued the estimated FOPs using surrogate values from Mexico, as noted above.[31]

Fair Value Comparisons

Based on the data provided by the petitioners, there is reason to believe that imports of mattresses from China are being, or are likely to be, sold in the United States at less than fair value. Based on comparisons of EP to NV in accordance with sections 772 and 773 of the Act, the estimated dumping margins for mattresses from China are 258.74 and 1,731.75 percent.[32]

Initiation of Less-Than-Fair-Value Investigation

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

Respondent Selection

The petitioners named 55 producers/exporters as accounting for the majority of exports of mattresses to the United States from China.[33] In accordance with our standard practice for respondent selection in AD cases involving NME countries, we intend to issue quantity and value (Q&V) questionnaires to producers/exporters of merchandise subject to this investigation. In the event Commerce determines that it cannot individually examine each producer/exporter, where appropriate, Commerce intends to select mandatory respondents based on the responses received to its Q&V questionnaire. Commerce will request Q&V information from known exporters and producers identified with complete contact information in the Petition. In addition, Commerce will post the Q&V questionnaire along with filing instructions on Enforcement and Compliance's website at *http://www.trade.gov/enforcement/news.asp.*

Producers/exporters of mattresses from China that do not receive Q&V questionnaires by mail may still submit a response to the Q&V questionnaire and can obtain a copy of the Q&V questionnaire from Enforcement & Compliance's website. The Q&V questionnaire response must be submitted by the relevant Chinese exporters/producers no later than 5:00 p.m. ET on October 23, 2018, which is two weeks from the signature date of this notice. All Q&V questionnaire responses must be filed electronically via ACCESS.

Separate Rates

In order to obtain separate-rate status in an NME investigation, companies must submit a separate-rate application.[34] The specific requirements for submitting a separate-rate application in this investigation are outlined in detail in the application itself, which is available on Commerce's website at *http://enforcement.trade.gov/nme/nme-sep-rate.html.* The separate-rate application will be due 30 days after publication of this initiation notice.[35] Companies that submit a separate-rate application and have been selected as mandatory respondents will be eligible for consideration for separate-rate status only if they respond to all parts of Commerce's AD questionnaire as mandatory respondents. Commerce requires that companies from China submit a response to both the Q&V questionnaire and the separate-rate application by the respective deadlines in order to receive consideration for separate-rate status. Companies not filing a timely Q&V questionnaire response will not receive separate-rate consideration.

Use of Combination Rates

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

{w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME Investigation will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well

[24] *See* China AD Initiation Checklist.

[25] *Id.*

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

[27] *See* China AD Initiation Checklist.

[28] *See* Volume II of the Petition at 32–34 and Exhibits 24.

[29] *Id.* at 34–36 and Exhibits 26–30.

[30] *See* Volume II of the Petition at 34–36 and Exhibit 26 and Petition Supplement at 13–15 and Exhibit 3.

[31] *Id.*

[32] *See* China AD Initiation Checklist.

[33] *See* Volume I of the Petition at Exhibit I–6; *see also* Petition Supplement at 1 and Exhibit 1.

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

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

as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of ''combination rates'' because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise *both* exported by the firm in question *and* produced by a firm that supplied the exporter during the period of investigation.[36]

Distribution of Copies of the Petition

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

ITC Notification

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

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition was filed, whether there is a reasonable indication that imports of mattresses from China are materially injuring or threatening material injury to a U.S. industry.[37] A negative ITC determination will result in the investigation being terminated.[38] Otherwise, the investigation will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). 19 CFR 351.301(b) requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted [39] and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.[40] Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in this investigation.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Parties should review *Extension of Time Limits; Final Rule,* 78 FR 57790 (September 20, 2013), available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting extension requests in this investigation.

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.[41] Parties must use the certification formats provided in 19 CFR 351.303(g).[42] Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

Notification to Interested Parties

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

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

Dated: October 9, 2018.

Gary Taverman,

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

Appendix

Scope of the Investigation

The scope of this investigation covers all types of youth and adult mattresses. The term ''mattress'' denotes an assembly of materials that at a minimum includes a ''core,'' which provides the main support system of the mattress, and may consist of innersprings, foam, other resilient filling, or a combination of these materials. Mattresses may also contain (1) ''upholstery,'' the material between the core and the top panel of the ticking on a single-sided mattress, or between the core and the top and bottom panel of the ticking on a double-sided mattress; and/or (2) ''ticking,'' the outermost layer of fabric or other material (*e.g.,* vinyl) that encloses the core and any upholstery, also known as a cover.

The scope of this investigation is restricted to only ''adult mattresses'' and ''youth mattresses.'' ''Adult mattresses'' have a width exceeding 35 inches, a length exceeding 72 inches, and a depth exceeding 3 inches on a nominal basis. Such mattresses are frequently described as ''twin,'' ''extra-long twin,'' ''full,'' ''queen,'' ''king,'' or ''California king'' mattresses. ''Youth mattresses'' have a width exceeding 27 inches, a length exceeding 51 inches, and a depth exceeding 1 inch (crib mattresses have a depth of 6 inches or less from edge to edge) on a nominal basis. Such mattresses are typically described as ''crib,'' ''toddler,'' or ''youth'' mattresses. All adult and youth mattresses are included regardless of actual size description.

The scope encompasses all types of ''innerspring mattresses,'' ''non-innerspring mattresses,'' and ''hybrid mattresses.'' ''Innerspring mattresses'' contain innersprings, a series of metal springs joined together in sizes that correspond to the dimensions of mattresses. Mattresses that contain innersprings are referred to as ''innerspring mattresses'' or ''hybrid

[36] *See* Policy Bulletin 05.1 at 6 (emphasis in original).

[37] *See* section 733(a) of the Act.

[38] *Id.*

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

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

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

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

mattresses.'' ''Hybrid mattresses'' contain two or more support systems as the core, such as layers of both memory foam and innerspring units.

''Non-innerspring mattresses'' are those that do not contain any innerspring units. They are generally produced from foams (*e.g.,* polyurethane, memory (viscoelastic), latex foam, gel-infused viscoelastic (gel foam), thermobonded polyester, polyethylene) or other resilient filling.

Mattresses covered by the scope of this investigation may be imported independently, as part of furniture or furniture mechanisms (*e.g.,* convertible sofa bed mattresses, sofa bed mattresses imported with sofa bed mechanisms, corner group mattresses, day-bed mattresses, roll-away bed mattresses, high risers, trundle bed mattresses, crib mattresses), or as part of a set in combination with a ''mattress foundation.'' ''Mattress foundations'' are any base or support for a mattress. Mattress foundations are commonly referred to as ''foundations,'' ''boxsprings,'' ''platforms,'' and/or ''bases.'' Bases can be static, foldable, or adjustable. Only the mattress is covered by the scope if imported as part of furniture, with furniture mechanisms, or as part of a set in combination with a mattress foundation.

Excluded from the scope of this investigation are ''futon'' mattresses. A ''futon'' is a bi-fold frame made of wood, metal, or plastic material, or any combination thereof, that functions as both seating furniture (such as a couch, love seat, or sofa) and a bed. A ''futon mattress'' is a tufted mattress, where the top covering is secured to the bottom with thread that goes completely through the mattress from the top through to the bottom, and it does not contain innersprings or foam. A futon mattress is both the bed and seating surface for the futon.

Also excluded from the scope are airbeds (including inflatable mattresses) and waterbeds, which consist of air- or liquid-filled bladders as the core or main support system of the mattress.

Further, also excluded from the scope of this investigation are any products covered by the existing antidumping duty order on uncovered innerspring units. *See Uncovered Innerspring Units from the People's Republic of China: Notice of Antidumping Duty Order,* 74 FR 7661 (February 19, 2009).

The products subject to this investigation are currently properly classifiable under Harmonized Tariff Schedule for the United States (HTSUS) subheadings: 9404.21.0010, 9404.21.0013, 9404.29.1005, 9404.29.1013, 9404.29.9085, and 9404.29.9087. Products subject to this investigation may also enter under HTSUS subheadings: 9404.21.0095, 9404.29.1095, 9404.29.9095, 9401.40.0000, and 9401.90.5081. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to this investigation is dispositive.

[FR Doc. 2018–22577 Filed 10–16–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Announcement of July 2018 Approved International Trade Administration Trade Missions

AGENCY: International Trade Administration, Department of Commerce.

SUMMARY: The United States Department of Commerce, International Trade Administration (ITA) is announcing two upcoming trade missions that will be recruited, organized, and implemented by ITA. These missions are:

Trade Mission to India and Indo-Pacific in Conjunction with Trade Winds Indo-Pacific—May 6–13, 2019.

Cybersecurity Business Development Mission to Denmark, Norway, and Sweden—September 23–27, 2019.

A summary of each mission is found below. Application information and more detailed mission information, including the commercial setting and sector information, can be found at the trade mission website: *http://export.gov/trademissions*.

For each mission, recruitment will be conducted in an open and public manner, including publication in the **Federal Register**, posting on the Commerce Department trade mission calendar (*http://export.gov/trademissions*) and other internet websites, press releases to general and trade media, direct mail, broadcast fax, notices by industry trade associations and other multiplier groups, and publicity at industry meetings, symposia, conferences, and trade shows.

DATES: Applicable October 17, 2018.

FOR FURTHER INFORMATION CONTACT: Gemal Brangman, Trade Promotion Programs, Industry and Analysis, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington DC 20230; telephone (202) 482–3773.

SUPPLEMENTARY INFORMATION:

The Following Conditions for Participation Will Be Used for Each Mission

Applicants must submit a completed and signed mission application and supplemental application materials, including adequate information on their products and/or services, primary market objectives, and goals for participation. If the Department of Commerce receives an incomplete application, the Department may either: Reject the application, request additional information/clarification, or take the lack of information into account when evaluating the application. If the requisite minimum number of participants is not selected for a particular mission by the recruitment deadline, the mission may be cancelled.

Each applicant must also certify that the products and services it seeks to export through the mission are either produced in the United States, or, if not, are marketed under the name of a U.S. firm and have at least fifty-one percent U.S. content by value. In the case of a trade association or organization, the applicant must certify that, for each firm or service provider to be represented by the association/organization, the products and/or services the represented firm or service provider seeks to export are either produced in the United States or, if not, marketed under the name of a U.S. firm and have at least 51% U.S. content.

A trade association/organization applicant must certify to the above for all of the companies it seeks to represent on the mission.

In addition, each applicant must:

- Certify that the products and services that it wishes to market through the mission would be in compliance with U.S. export controls and regulations;
- Certify that it has identified any matter pending before any bureau or office in the Department of Commerce;
- Certify that it has identified any pending litigation (including any administrative proceedings) to which it is a party that involves the Department of Commerce; and
- Sign and submit an agreement that it and its affiliates (1) have not and will not engage in the bribery of foreign officials in connection with a company's/participant's involvement in this mission, and (2) maintain and enforce a policy that prohibits the bribery of foreign officials.

In the case of a trade association/organization, the applicant must certify that each firm or service provider to be represented by the association/organization can make the above certifications.

The Following Selection Criteria Will Be Used for Each Mission

Targeted mission participants are U.S. firms, services providers and trade associations/organizations providing or promoting U.S. products and services that have an interest in entering or expanding their business in the mission's destination country. The following criteria will be evaluated in selecting participants:

- Suitability of the applicant's (or in the case of a trade association/organization, represented firm or service

provider's) products or services to these markets;

• The applicant's (or in the case of a trade association/organization, represented firm or service provider's) potential for business in the markets, including likelihood of exports resulting from the mission; and

• Consistency of the applicant's (or in the case of a trade association/organization, represented firm or service provider's) goals and objectives with the stated scope of the mission.

Balance of company size and location may also be considered during the review process. Referrals from a political party or partisan political group or any information, including on the application, containing references to political contributions or other partisan political activities will be excluded from the application and will not be considered during the selection process. The sender will be notified of these exclusions.

Trade Mission Participation Fees

If and when an applicant is selected to participate on a particular mission, a payment to the Department of Commerce in the amount of the designated participation fee below is required. Upon notification of acceptance to participate, those selected have 5 business days to submit payment or the acceptance may be revoked.

Participants selected for a trade mission will be expected to pay for the cost of personal expenses, including, but not limited to, international travel, lodging, meals, transportation, communication, and incidentals, unless otherwise noted. Participants will, however, be able to take advantage of U.S. Government rates for hotel rooms. In the event that a mission is cancelled, no personal expenses paid in anticipation of a mission will be reimbursed. However, participation fees for a cancelled mission will be reimbursed to the extent they have not already been expended in anticipation of the mission.

If a visa is required to travel on a particular mission, applying for and obtaining such visas will be the responsibility of the mission participant. Government fees and processing expenses to obtain such visas are not included in the participation fee. However, the Department of Commerce will provide instructions to each participant on the procedures required to obtain business visas. Trade Mission members participate in trade missions and undertake mission-related travel at their own risk. The nature of the security situation in a given foreign market at a given time cannot be guaranteed. The U.S. Government does not make any representations or guarantees as to the safety or security of participants. The U.S. Department of State issues U.S. Government international travel alerts and warnings for U.S. citizens available at *https://travel.state.gov/content/passports/en/alertswarnings.html.* Any question regarding insurance coverage must be resolved by the participant and its insurer of choice.

Definition of Small and Medium Sized Enterprise

For purposes of assessing participation fees, the Department of Commerce defines Small and Medium Sized Enterprises (SME) as a firm with 500 or fewer employees or that otherwise qualifies as a small business under SBA regulations (see *http://www.sba.gov/services/contracting opportunities/sizestandardstopics/index.html*). Parent companies, affiliates, and subsidiaries will be considered when determining business size.

Mission List: (additional information about each mission can be found at *http://export.gov/trademissions*).

Trade Mission to India and Indo-Pacific in Conjunction With Trade Winds Indo-Pacific, May 6–13, 2019

Summary

The United States Department of Commerce, International Trade Administration, U.S. and Foreign Commercial Service (USFCS) is organizing a trade mission to India and the Indo-Pacific region, that will include the Trade Winds Indo-Pacific business forum in New Delhi, India, May 2019. U.S. trade mission members will participate in the Trade Winds—Indo-Pacific business forum in New Delhi, India (which is also open to U.S. companies not participating in the trade mission). Trade mission participants may participate in their choice of mission stops based on recommendations from the USFCS. Each trade mission stop will include one-on-one business appointments with pre-screened potential buyers, agents, distributors and joint-venture partners, and networking events. Trade mission participants electing to participate in the Trade Winds Indo-Pacific business forum may attend regional consultations with USFCS Senior Commercial Officers and Officers from participating State Department Partner Posts.

This mission is open to U.S. companies from a cross section of industries with growth potential in India and the Indo-Pacific region, including but not limited to: Aviation and defense, energy, healthcare, environmental technologies, digital services, infrastructure, smart cities, mining, agribusiness, automotive, and consumer goods.

Schedule

This timetable allows for clients to take part in business matchmaking across the diverse Indian marketplace by offering scheduled business-to-business meetings in New Delhi, Mumbai, Bengaluru, Chennai, Hyderabad, Kolkata, and Ahmedabad. This structure ensures that each post has set days for meetings that allow the clients to explore up to three of their best prospects for business.

The clients have the option to travel over the weekend to their choice of a mission stop offered in Bangladesh or Sri Lanka.

Sunday, May 5	Arrive in New Delhi, India.
Monday–Wednesday, May 6–8	New Delhi, India: Trade Winds Business Forum. Registration and Market Briefings, Business to Business meetings, Consultations with U.S. government trade representatives and networking with U.S. and foreign government and business officials.
Thursday, May 9	Mumbai, Ahmedabad, Bengaluru, Chennai, Hyderabad and Kolkata: Business to Business Meetings (Choice of one mission stop).
Friday, May 10	Mumbai, Ahmedabad, Bengaluru, Chennai, Hyderabad and Kolkata: Business to Business Meetings (Choice of one mission stop).
Saturday–Sunday, May 11–12	Travel to Bangladesh or Sri Lanka if electing to participate in one of these mission stops.
Monday, May 13	Bangladesh or Sri Lanka: Business to Business meetings and networking with government and business officials.
Tuesday, May 14	Trade Mission Participants Depart.

Website: Please visit our official mission website for more information: *http://export.gov/tradewinds*.

Participation Requirements

All parties interested in participating in the trade mission to India (including mission stops with business matchmaking within India and/or Bangladesh or Sri Lanka must complete and submit an application package for consideration by the Department of Commerce. All applicants will be evaluated on their ability to meet certain conditions and best satisfy the selection criteria as outlined below.

A minimum of 40 companies and/or trade associations will be selected to participate in the mission from the applicant pool on a rolling basis. Mission stop participation will be limited as follows:

Business matchmaking capacity:

New Delhi—30
Mumbai—30
Chennai—25
Kolkata—15
Bengaluru—25
Ahmedabad—8
Hyderabad—5
Partner Post Sri Lanka—5
Partner Post Bangladesh—12

Additional delegates may be accepted based on available space. U.S. companies and/or trade associations already doing business in or seeking business in India, Sri Lanka or Bangladesh for the first time may apply.

Fees and Expenses

If and when an applicant is selected to participate on a particular mission, a payment to the Department of Commerce in the amount of the designated participation fee below is required. Upon notification of acceptance to participate, those selected have 5 business days to submit payment or the acceptance may be revoked.

The below trade mission fees include the $650 participation fee for the Trade Winds business forum to be held in New Delhi, India on May 6–8, 2019.

1. For one mission stop, the participation fee will be $2,200 for a small or medium-sized enterprise (SME) and $4,200 for large firms.

2. For two mission stops, the participation fee will be $3,200 for a small or medium-sized enterprise (SME) and $5,200 for large firms.

3. For three mission stops, the participation fee will be $4,200 for a small or medium-sized enterprise (SME) and $6,200 for large firms.

4. For four mission stops, the participation fee will be $5,200 for a small or medium-sized enterprise (SME) and $7,200 for large firms.

An additional representative for both SMEs and large firms will require an additional fee of $500.

Timeline for Recruitment

Recruitment for the mission will begin immediately and conclude no later than March 15, 2019. The U.S. Department of Commerce will review applications and make selection decisions on a rolling basis beginning October 31, 2018, until the maximum number of participants is selected. After March 15, 2019, applications will be considered only if space and scheduling constraints permit.

Contacts

Leslie Drake, Director U.S. Export Assistance Center—Charleston, WV, *Leslie.Drake@trade.gov*, Tel: 304–347–5123

International Contact Information

Aileen Nandi, Acting Senior Commercial Officer, U.S. Commercial Service New Delhi, Email: *Aileen.Nandi@trade.gov*

Greg Taevs, Acting Deputy Senior Commercial Officer, U.S. Commercial Service Mumbai, Email: *Gregory.Taevs@trade.gov*

Cyber-Security Business Development Mission to Denmark, Norway, and Sweden, September 23–27, 2019

Summary

The United States Department of Commerce, International Trade Administration (ITA), is organizing a cybersecurity Business Development Mission to Denmark, Norway, and Sweden.

This mission aims to introduce U.S. firms and trade associations to Northern Europe's information and communication technology (ICT), security, and critical infrastructure protection markets. It will assist U.S. companies in finding business partners to which they may export their products and services in the region. This mission intends to include representatives from U.S. companies and U.S. trade associations with members that provide cybersecurity and critical infrastructure protection products and services. The mission will visit Denmark, Norway, and Sweden, giving U.S. firms access to business development opportunities across in the Nordic region. Participating firms will gain market insights, make industry contacts, solidify business strategies, and advance their own specific projects, all with the goal of increasing U.S. product and service exports to the region. This mission will include customized, one-on-one, business appointments with pre-screened potential buyers, agents, distributors, and joint venture partners. It will also allow for meetings with industry leaders as well as state and local government officials, along with other networking events.

Like many other European countries, the Nordic cybersecurity market revolves around the following categories:

Security Software: Software as a Service (SAaS); Anti-virus software; content-management soft-ware; Security Information and Event Management (SIEM); software associated with compliance and disclosure regulations.

Security Services: Managed Information Security Services (MISS); Outsourcing; security audits and penetration testing; services associated with compliance and disclosure regulations.

Security Appliances: Unified Threat Management (UTM)—the unification of firewall, VPN, ID&P and gateway antivirus into a single platform; wireless and application security solutions; biometric technology.

Proposed Timetable

* *Note:* The schedule below is only an example of potential activities during the mission and are subject to change. The final schedule and potential site visits will depend on the availability of host government and business officials, specific goals of mission participants, and ground transportation.

Sunday, September 22	Trade Mission Participants Arrive in Copenhagen.
Monday, September 23, Copenhagen	Welcome and Denmark Country Briefing; Participant Elevator Pitches followed by matchmaking appointments; Networking Lunch; Matchmaking continues; Networking Reception at Ambassador's residence (TBC).
Tuesday, September 24, Copenhagen/Oslo.	Public Sector Roundtable incl. light lunch; Travel to Oslo; Networking Reception at Ambassador's residence including Norway Country Briefing (TBC).
Wednesday, September 25, Oslo/Stockholm.	Public Sector Roundtable; Networking Lunch with Participant Elevator Pitches; Matchmaking appointments; Depart for Stockholm.

Thursday, September 26, Stockholm	Welcome and Sweden Country Briefing; Participant Elevator Pitches followed by matchmaking appointments; Networking Lunch; Matchmaking continues; Networking Reception at Ambassador's residence (TBC).
Friday, September 27	Public Sector Roundtable; Mission concludes and Participants Depart.

Participation Requirements

All parties interested in participating in the trade mission must complete and submit an application package for consideration by the U.S. Department of Commerce. All applicants will be evaluated on their ability to meet certain conditions and best satisfy the selection criteria as outlined below. A minimum of 10 and maximum of 12 firms and/or trade associations will be selected to participate in the mission from the applicant pool.

Fees and Expenses

If, and when, an applicant is selected to participate on a particular mission, a payment to the Department of Commerce in the amount of the designated participation fee is required. Upon notification of acceptance to participate, those selected have 5 business days to submit payment or the acceptance may be revoked. The participation fee for the Business Development Mission will be $3,800.00 for small or medium-sized enterprises (SME); and $4,800.00 for large firms or trade associations. The fee for each additional firm representative (large firm or SME/trade organization) is $1,000. Expenses for travel, lodging, meals, and incidentals will be the responsibility of each mission participant. Interpreter and driver services can be arranged for additional cost. Delegation members will be able to take advantage of U.S. Embassy rates for hotel rooms.

Timeframe for Recruitment and Application

Recruitment for the mission will begin immediately and conclude no later than June 14, 2019. The U.S. Department of Commerce will review applications and make selection decisions on a rolling basis beginning September 10, 2018 until the maximum of 12 participants is selected. Applications received after June 14, 2019, will be considered only if space and scheduling constraints permit.

Contacts

USA

Gemal Brangman, Project Officer, Trade Promotion Programs, Washington, DC, Tel: 202–482–3773, *Gemal.Brangman@trade.gov*

Pompeya Lambrecht, Senior International Trade Specialist, Northern Virginia—USEAC, Tel: 703–235–0102, *Pompeya.Lambrecht@trade.gov*

Sheryl Hitomi, International Trade Specialist, San Jose—USEAC, Tel: 408–535–2757, *Sheryl.Hitomi@trade.gov*

Denmark

Aleksander Moos, Commercial Specialist, Tel: + 45 33 41 73 15, *Aleksander.Moos@trade.gov*

Norway

Heming Bjorna, Senior Commercial Specialist, Tel: + 47 21 30 88 66, *Heming.Bjorna@trade.gov*

Sweden

Tuula Ahlstrom, Senior Commercial Specialist, Tel: + 46 8 783 5346, *Tuula.Ahlstrom@trade.gov*

Tiara Hampton-Diggs,

Program Specialist for Trade Promotion Programs.

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BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG506

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to In-Water Demolition and Construction Activities Associated With a Harbor Improvement Project in Statter Harbor, Alaska

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

ACTION: Notice; proposed incidental harassment authorization; request for comments on proposed authorization and possible renewal.

SUMMARY: NMFS has received a request from the City of Juneau for authorization to take marine mammals incidental to harbor improvement projects in Statter Harbor, Alaska. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an incidental harassment authorization (IHA) to incidentally take marine mammals during the specified activities. NMFS is also requesting comments on a possible one-year renewal that could be issued under certain circumstances and if all requirements are met, as described in *Request for Public Comments* at the end of this notice. NMFS will consider public comments prior to making any final decision on the issuance of the requested MMPA authorizations and agency responses will be summarized in the final notice of our decision.

DATES: Comments and information must be received no later than November 16, 2018.

ADDRESSES: Comments should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service. Physical comments should be sent to 1315 East-West Highway, Silver Spring, MD 20910 and electronic comments should be sent to *ITP.Young@noaa.gov.*

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments received electronically, including all attachments, must not exceed a 25-megabyte file size. Attachments to electronic comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted online at *https://www.fisheries.noaa.gov/node/23111* without change. All personal identifying information (*e.g.,* name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Sara Young, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities.* In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

The MMPA prohibits the ''take'' of marine mammals, with certain

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

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other means of effecting the least practicable adverse impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stocks for taking for certain subsistence uses (referred to in shorthand as ''mitigation''); and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

The NDAA (Pub. L. 108–136) removed the ''small numbers'' and ''specified geographical region'' limitations indicated above and amended the definition of ''harassment'' as it applies to a ''military readiness activity.'' The definitions of all applicable MMPA statutory terms cited above are included in the relevant sections below.

National Environmental Policy Act

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

This action is consistent with categories of activities identified in Categorical Exclusion B4 (IHAs with no anticipated serious injury or mortality) of the Companion Manual for NOAA Administrative Order 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has preliminarily determined that the issuance of the proposed IHA qualifies to be categorically excluded from further NEPA review.

We will review all comments submitted in response to this notice prior to concluding our NEPA process or making a final decision on the IHA request.

Summary of Request

On February 12, 2018, NMFS received a request from the City of Juneau for an IHA to take marine mammals incidental to harbor improvement projects in Statter Harbor, Alaska. The original application covered three years of potential work and was revised to one year of work on March 9, 2018. A series of exchanges regarding acoustic analyses continued until a meeting was held on June 21, 2018. An additional revision was received on August 8, 2019. The application was deemed adequate and complete on September 18, 2018. The City of Juneau's request is for take of a small number of harbor seal, harbor porpoise, humpback whale, and Steller sea lion by Level B harassment and Level A harassment. Neither the City of Juneau nor NMFS expects serious injury or mortality to result from this activity and, therefore, an IHA is appropriate.

Description of Proposed Activity

Overview

The harbor improvements described in the application include demolition and disposal of the existing boat launch ramp and timber haulout pier, dredging of the planned harbor basin with offshore disposal, excavation of bedrock within the basin by blasting from a temporary fill pad, and construction of a mechanically stabilized earth (MSE) wall.

Dates and Duration

Work is expected to occur between January 1, 2019 and December 31, 2019. The expected allocation of days for each activity is as follows: Two to ten days of vibratory pile removal, 30–45 days of dredging and dredge disposal, 15 days of in-water fill placement and removal, and two days of blasting. In winter months, shorter 8-hour to 10-hour workdays in available daylight are anticipated. To be conservative, 12-hour work days were used to analyze construction noise. The daily construction window for blasting and dredging will begin no sooner than 30 minutes after sunrise to allow for initial marine mammal monitoring to take place and will end 30 minutes before sunset to allow for post-activity monitoring.

Specific Geographic Region

The proposed activities would occur at Statter Harbor in Auke Bay, Alaska which is in the southeast portion of the state. See Figures 1 and 4 in the application for detailed maps of the project area. Statter Harbor is located at the most northeasterly point of Auke Bay.

Detailed Description of Specific Activity

Demolition and Disposal—Work proposed for 2019 includes demolition and disposal of the existing 16-foot (ft) (4.9-meter (m)) by 200-ft (61-meter) concrete boat launch ramp and planks, an 8-ft (2.4-m) by 240-ft (73.2-m) boarding float, four 12.75-inch (in) (3.2-decimeter) diameter steel pipe piles, 1,152 square feet (ft) (107.0 square m) of timber boat haulout pier, and 16 12-in to 16-in creosote-treated timber piles.

Demolition of the existing timber boat haulout pier and boat launch ramp will be performed with track excavators, loaders, cranes, barges, crane dead-pulling (preferred method), vibratory hammer (if needed), various hand tools, and labor forces. Existing piles will be removed via dead-pulling with a crane if possible, or, if not, a vibratory hammer will be used. Vibratory pile removal will generally consist of clamping the vibratory hammer to the pile and vibrating the hammer while extracting to a point where the pile is temporarily secured and removal can be completed with crane line rigging under tension. The pile is then completely removed from the water by hoisting with crane line rigging and placing on the uplands or deck of the barge. The applicant will dispose of demolished items in accordance with all Federal, state, and local regulations.

Based on the characterization of work described below, we expect take of marine mammals may result from some combination of vibratory pile removal, dredging, and blasting activities.

Dredging and Dredge Disposal

The project includes 24,300 cubic yards (yd^3)(18,578.7 cubic meters (m^3)) of dredging in the existing harbor. When the material is removed from the ground it will bulk up in the barge due to increased water content and fluff. To account for this a conservative bulking factor of 1.25 was applied to the dredged volume, resulting in up to 30,375 yd^3(23,223.4m^3) of material to be disposed. Dredging will be performed by either an excavator or a crane with clamshell from a flat deck or derrick

barge. The barge will be fixed in place to allow the excavator access to an area and periodically repositioned to gain access to new areas.

Once material is removed from the seafloor, it will be placed into a second belly dump dredge barge where the material will be dewatered and then be towed by a tug to the disposal site to be deposited. The target location for disposal of material was provided to the applicant by the Alaska Department of Fish and Game (ADF&G) just outside of the harbor at latitude 58°22′22.08″ N and 134°39′49.32″ W. Based on the nature of dredge disposal activity, substrate placed on a small barge and towed to a disposal site, we do not consider dredge disposal an activity that could result in take of marine mammals and do not consider it further. Because the dredging activity is producing sound underwater at levels likely audible to marine mammals and the sound source is concentrated underwater in a region with resident marine mammals it has the potential harass marine mammals and was considered further in our analysis.

Blasting and Excavation

A geotechnical investigation including borehole samples and test probing was performed by PND Engineers in 2016 and revealed shallow bedrock within the harbor basin. The design depth necessary for safe navigation is 16 ft (4.9 m) below mean lower low water (MLLW) with an additional 1-ft (0.3-m) considered as potential additional depth needed to dredge, also termed overdredge allowance. Test probing showed that the top-of-rock elevations within the dredge basin range from approximately 4 ft below MLLW to depths greater than the design elevation (17 ft (5.2 m) below MLLW with overdredge allowance).

During construction the dredging will be conducted first to remove the overburden from the bedrock. A survey will then be conducted to determine the exact extent of bedrock to be removed. The estimated amount of rock excavation is 1,761 yd^3(2,000 yd^3(1,529.1 m^3) permitted volume to account for uncertainty) based on preconstruction surveys. Temporary fill to confine the blast will be placed using conventional construction equipment. A fill is poured over the area where blasting is planned and then the hole for the charges are made beginning in the fill layer. Approximately half of the fill for this temporary pad will be placed above the water line.

Alaska Seismic and Environmental prepared a General Blast Plan and Analysis and sound pressure level (SPL) and sound exposure level (SEL) Isopleth Distances report (Appendix C of the application) detailing the bedrock removal plan and how the exclusion zones for each hearing group were determined. The selected methodology for the blast is to perform two blasts, one per day on two separate days. Each blast will be approximately one (1) second in duration. Both blasts will consist of many detonations separated by some small number of milliseconds delay. The number of charges will vary depending on conditions after overburden is removed but is anticipated to be between 50 and 75 holes with charges per blast. Individual charge size will depend on conditions after holes are drilled; maximum charge size (explosive weight) detonated per each 8-millisecond delay period will be limited to 93.5 pounds (42.4 kilograms).

Individual charge amounts and other hole-loading details will be determined by the contractor's blaster-in-charge and blasting consultant after holes are drilled. This allows for safe and appropriate loading decisions to be made based on rock features such as voids, seams, fractures, and other discontinuities encountered during drilling.

After blasting, the temporary fill will be removed with excavators, loaded into dump trucks, and stockpiled in the uplands to be reused during the MSE wall construction. The blasted material will be excavated, separated from the temporary fill, and hauled offsite to an uplands disposal site.

MSE Wall In-Water Fill Placement and Removal

The MSE wall will be constructed with track excavators, loaders, vibratory drum rollers, dump trucks, various hand tools, and labor forces. Excavated material will be placed into dump trucks and hauled offsite. The concrete retaining wall blocks will be set in place one course at a time. Imported fill will be delivered by dump truck, spread behind the blocks in lifts, and compacted with vibratory rollers to meet design grades and compaction requirements. A layer of geotextile fabric will be placed behind the wall on the compacted fill with each course of blocks. A total of 6,800 yd^3 (5,199 m^3) of shot rock material will be placed below the high tide line (HTL) behind the MSE wall.

A 5-ft (1.5-m) thick armored dredge basin slope will require an additional 650 yd^3(497 m^3) of armor rock material, and a lower 2-ft (0.6-m) thick slope will require an additional 1,350 yd^3(1,032.1 m^3) of material. Total fill material placed below the HTL is not expected to exceed 8,800 yd^3(6,728.1 m^3). All work in intertidal zones will be performed during low tides so that all material will be placed above current water levels. Because all material will be placed above current water levels, we do not expect take of marine mammals from this activity.

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

Description of Marine Mammals in the Area of Specified Activities

Seven species of marine mammal have been documented in southeast Alaska waters in the vicinity of Statter Harbor. These species are: harbor seal, harbor porpoise, Dall's porpoise, killer whale, humpback whale, minke whale, and Steller sea lion. Of these species, only three are known to occur in Statter Harbor: harbor seal, Steller sea lion, and humpback whale.

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

Table 1 lists all species with expected potential for occurrence in Statter Harbor and summarizes information related to the population or stock, including regulatory status under the MMPA and ESA and potential biological removal (PBR), where known. For taxonomy, we follow Committee on Taxonomy (2017). PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS's SARs). While no mortality is anticipated or authorized here, PBR and annual serious injury and mortality from anthropogenic sources are included here as gross indicators of the status of the species and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total

number estimated within a particular study or survey area. NMFS's stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS's U.S. Alaska Region Draft 2018 SAR (Muto *et al,* 2018). All values presented in Table 1 are the most recent available at the time of publication and are available in the Draft 2018 SAR (Muto *et al,* 2018).

TABLE 1—SPECIES WITH THE POTENTIAL TO OCCUR IN STATTER HARBOR

Common name	Scientific name	Stock	ESA/ MMPA status; Strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR	Annual M/SI [3]
Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales)						
Family Balaenopteridae (rorquals)						
Humpback whale	Megaptera noveangliae	Central North Pacific	E,D,Y	10,103 (0.3, 7,891, 2006)	83	26
Minke whale	Balaenoptera acutorostrata	Alaska	-; N	N/A	Und	0
Superfamily Odontoceti (toothed whales, dolphins, and porpoises)						
Family Delphinidae						
Killer whale	Orcinus orca	Northern Resident	-; N	261 (N/A, 261, 2011)	1.96	0
Killer whale	Orcinus orca	Gulf of Alaska transient	-; N	587 (N/A, 587, 2012)	5.87	1
Killer whale	Orcinus orca	West Coast Transient	-; N	243 (N/A, 243, 2009)	2.4	0
Family Phocoenidae (porpoises)						
Harbor porpoise	Phocoena phocoena	Southeast Alaska	-; Y	975 (0.14, 872, 2012)	8.7	34
Dall's porpoise	Phocoenoides dalli	Alaska	-; N	83,400 (0.097, N/A, 1991).	Und	38
Order Carnivora—Superfamily Pinnipedia						
Family Otariidae (eared seals and sea lions)						
Steller sea lion	Eumetopias jubatus	Western DPS	E/D; Y	54,267 (N/A; 54,267, 2017).	326	252
Steller sea lion	Eumetopias jubatus	Eastern DPS	T/D; Y	41,638 (N/A, 41,638, 2015).	2498	108
Family Phocidae (earless seals)						
Harbor seal	Phoca vitulina	Lynn Canal	-; N	9,478 (N/A, 8,605, 2011)	155	50

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

[2] NMFS marine mammal stock assessment reports online at: *www.nmfs.noaa.gov/pr/sars/.* CV is coefficient of variation; Nmin is the minimum estimate of stock abundance. In some cases, CV is not applicable.

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

Note: *Italicized species are not expected to be taken or proposed for authorization.*

All species that could potentially occur in the proposed survey areas are included in Table 1. It is unlikely the species italicized above in Table 1 are likely to venture far enough into the harbor to enter the acoustic isopleths where we expect take to occur. The spatial occurrence of minke whale and Dall's porpoise is such that take is not expected to occur, and they are not discussed further beyond the explanation provided here. While these species have been sighted in southeast Alaska more broadly, these sightings have been recorded for areas closer to the ocean. Auke Bay is separated from the Pacific by multiple barrier islands and Statter Harbor is located in the most inland section of the bay, making the occurrence of species infrequently sighted farther seaward even less likely. Killer whales are not known to occur frequently in Auke Bay, although they have been sighted infrequently, with no obvious temporal pattern to the sightings. While it is possible killer whales could enter Auke Bay during work, it is unlikely they would continue as far inland as Statter Harbor. If killer whales did venture into Statter Harbor to a distance where acoustic exposure would be a concern, they would be easily identifiable to observers stationed in the harbor for mitigation and monitoring purposes and a shutdown would be ordered. Therefore, take of killer whales from these activities is unlikely to occur and they are not considered further in this document. The work proposed in Statter Harbor is in a very sheltered and inland harbor with a consistent sightings record of the three species considered further: Steller sea lion, humpback whale, and harbor seal. Harbor porpoise, while infrequently sighted near Statter Harbor, are considered further as their fast swim speeds and small size make detection to implement mitigation measures difficult. The species for which take is anticipated are described below.

Humpback whale

Humpbacks that breed around the main Hawaiian Islands have been observed in summer feeding grounds throughout the North Pacific. The majority of the humpbacks found in Southeast Alaska and northern British Columbia have migrated from Hawaii for foraging opportunities and belong to the Hawaii DPS (Bettridge *et al,* 2015). Wade *et al.* (2016) estimated that 93.9 percent of the humpbacks encountered in Southeast Alaska and Northern British Columbia are from the Hawaii DPS, with the remaining percentage of humpbacks coming from the Mexico DPS.

While in their Alaskan feeding grounds, humpback whales prey on a variety of euphausiids and small schooling fishes including herring, smelt, capelin, sandlance, juvenile

pollock, and salmon smolts (Kawamura 1980, Krieger and Wing 1986, Witteveen *et al.* 2008, Straley *et al.* 2017, Chenoweth *et al.* 2017). Herring targeted by Southeast Alaska whales in Lynn Canal during 2007–2009 winters were lipid-rich, with energy content ranging from 7.3–10.0 kJ/gram (Vollenweider *et al.* 2011). The local distribution of humpbacks in Southeast Alaska appears to be correlated with the density and seasonal availability of prey, particularly herring and euphausiids (Moran *et al.* 2017). Important feeding areas include Glacier Bay and adjacent portions of Icy Strait, Stephens Passage/Frederick Sound, Seymour Canal, Lynn Canal, and Sitka Sound and these areas have been included in the designation of a Biologically Important Area for humpbacks in the Gulf of Alaska. During autumn and winter, the non-breeding season, humpbacks remaining in Southeast Alaska target areas where herring and eulachon are abundant, such as Seymour Canal, Berners Bay, Auke Bay, Lynn Canal, and Stephens Passage (Krieger and Wing 1986, Moran *et al.* 2017). Over 2,940 and 2,019 humpback whale foraging-days were documented in Lynn Canal alone in 2007–2008 and 2008–2009 winter seasons, respectively (Moran *et al.* 2017).

Fidelity to feeding grounds by individual humpbacks is well documented; interchange between Alaskan feeding grounds is rare (Witteveen and Wynne 2017). Long-term research and photo-identification efforts have documented individual humpbacks that have returned to the same feeding grounds for as many 45 years (Straley 2017, Witteveen and Wynne 2017, Gabriele *et al.* 2017). Based on fluke pattern identification, Krieger, Baker and Wing identified 189 unique whales in the Juneau to Glacier Bay and Seymour Canal area (Krieger *et al.* 1986). In recent years, 179 individual humpback whales were identified from the Juneau area, based upon fluke photographs taken between 2006 and 2014 (Teerlink 2017). Humpback whales occur in the project area intermittently year-round. Auke Bay and Statter Harbor are thought to have certain habitat features that attract humpback whales in recent years. The aggregation of herring in inner Auke Bay provide a habitat where whales may make energetic decisions to exploit small volumes of fish and rest to conserve energy between foraging opportunities.

Humpback whales utilize habitats in the project area intermittently. The breakwater and other dock structures appear to serve as fish-attracting devices, where forage fish (herring, capelin, sandlance, pollock, and juvenile salmon) aggregate and are targeted by diving humpback whales. Two humpback whales in recent years have also targeted a shallow trough off the east end of the Statter Harbor breakwater for deeper diving foraging excursions targeting herring and possibly juvenile pollock (Ridgway pers. observ.). Some individual whales enter Auke Bay through the north Coghlan Island entrance and conduct a pattern of exploitation or ''browsing'' in the bay and inner harbor. In this area some whales lunge feed and gulp massive volumes of feed in seawater immediately adjacent to or rubbing against boats, docks and other structures in deep to shallow waters throughout the action area. These whales have been observed continuing a pattern search alongshore to Auke Creek and up Fritz Cove, where they have been seen lunge feeding in small coves and gullies in shallow water to aggregate schooling fish.

Because humpback whale individuals of different DPS origin are indistinguishable from one another in Alaska (unless fluke patterns are linked to the individual in both feeding and breeding ground), the frequency of occurrence of animals by DPS is only estimated using the DPS ratio, based upon the assumption that the ratio is consistent throughout the Southeast Alaska region (Wade *et al.* 2016).

Harbor seals

The Lynn Canal/Stephens Passage stock is found in the project area waters. The current population estimate for the Lynn Canal/Stephens Passage stock is 9,478 individuals, and the 5-year trend estimate is −176. The probability of decrease of this stock is 0.71, indicating that evidence suggests that the stock is declining, however 9 of the 12 Alaska harbor seal stocks are showing a trend of increasing populations (Muto *et al.* 2018). Typically harbor seals will stay within 16 miles (25 km) of shore, but they have been found up to 62 miles (100 km) from the shore (Klinkhart *et al.* 2008). Harbor seal movement is highly variable, with no seasonal patterns identified.

Harbor seals use a variety of terrestrial sites to haul out for resting (year-round), pupping (May–July), and molting (August–September) including tidal and intertidal reefs, beaches, sand bars, and glacial/sea ice (Sease 1992; Klinkhart *et al.* 2008). Some sites have traditional/historic value for pupping and molting while others are used as temporary resting sites during seasonal foraging trips.

Harbor seals are residents of the project area and observed within the harbor on a regular basis and can be found within the immediate project vicinity on a daily basis. Over the last three winters, a group of up to 12 harbor seals has been observed in inner Statter Harbor near the harbormaster building along with 1–2 dispersed seals near the Auke Creek shoreline (Kate Wynne pers. observ.). Additionally, other counts from 2014–2016 recorded 2–16 animals within Statter Harbor. Up to 52 individual seals have been photographed simultaneously hauled out on the nearby dock at Fishermen's Bend, located in the northwest corner of Statter harbor (Ridgway unpubl. Data). It is assumed that the majority of animals that haul out on the nearby floats at Fishermen's Bend are likely to go under water and resurface throughout the duration of the project. However, further clarification on the number of individual seals likely to occur in the project area is difficult as harbor seals are not easily identifiable at an individual level.

Steller Sea Lions

The Steller sea lion was listed as a threatened species under the ESA in 1990 following declines of 63 percent on certain rookeries since 1985 and declines of 82 percent since 1960 (55 FR 12645). In 1997, two DPSs of Steller sea lion were identified based on differences in genetics, distribution, phenotypic traits, and population trends: the Western DPS and Eastern DPS (Fritz *et al.* 2013).

The Eastern DPS (eDPS) is commonly found in the project area waters and were most recently surveyed in Southeast Alaska in June–July of 2015. The current population estimate for the eDPS is 71,562 individuals of which 52,139 are non-pups and 19,423 are pups. In Southeast Alaska the estimated total abundance is 28,594 individuals of which 20,756 are non-pups and 7,838 are pups. The eDPS has been increasing between 1990 to 2015 with an estimated annual increase of 4.76 percent for pups and 2.84 percent for non-pups. (Muto *et al.* 2018) The Western DPS (wDPS) is found infrequently in the project area waters, but have been sighted previously. The current abundance estimate for the U.S. portion of the wDPS is 50,983 of which 12,492 were pups and 38,491 were non-pups. This is the minimum estimate for only the U.S. portion of the wDPS. It is the minimum count because the counts were not corrected for animals at sea during the survey. The overall trend for the wDPS in Alaska is an annual increase of 1.94

percent for non-pups and 1.87 percent for pups. (Muto *et al.* 2018)

There is no critical habitat designated for Steller sea lions within the action area. The action area is located approximately 12 nautical miles (22.22 kilometers) from around Benjamin Island, well outside of the 3,000-ft (914.4-m) designated critical habitat boundary designation.

Steller sea lions occur in Auke Bay in winter on an intermittent basis, but their genetic and stock-designation identities are rarely known: individuals are indistinguishable unless sea lions are branded (and the brand is observed). Satellite-tagged individual animals from the Benjamin Island haulout and Auke Bay were observed multiple times between November 2010 and January 2011 (Fadely 2011), and the Auke Bay boating community frequently observes Steller sea lions moving to and from the haulout complex into Auke Bay.

From 2013–2017, Steller sea lions have been documented in Auke Bay travelling as individuals or in herds of 50 to an estimated 120+ animals, during every month of the winter season. During winter 2015–2016, Steller sea lions foraged aggressively on young herring and 1–2-year-old Walleye pollock for over 20 days, continuously. Some sea lions were also observed consuming small flatfish, likely yellowfin sole, harvested from the seafloor (depth 25–45 m), during this period. While no sea lions were observed hauled out on beaches or structures in the harbor, large rafts of 20–50 animals formed and rested in the outer harbor area between foraging bouts. Simultaneous surface counts of 121 individual sea lions suggests that likely upwards of 200 animals or more were targeting prey in Statter Harbor during herring aggregation events. These 121 to 200 animals comprise roughly 20 to 30 percent of the animals typically found at the Benjamin Island and Little Island haulout complexes during winter months. (Ridgway pers. observ.)

Only three individual, branded wDPS Steller sea lions have been observed at Benjamin Island, the closest haulout, from 2003–2006 with a maximum of 3 sightings per individual. No branded wDPS individuals have been observed in the ADF&G surveys from 2007–2016. The 2007 ADF&G surveys offer the most abundant data for Steller sea lion counts at Benjamin Island. A total of 11 surveys were conducted between January and July 2017, ranging from 0–768 Steller sea lions, with an average count of 404 individuals. In 2007 no wDPS animals were observed. While it is possible an individual from the wDPS may be at the Benjamin Island haulout, it is rare, and none have been documented at this haulout for the last decade (Jemison pers. comm. 2017).

Although recent data in the northern part of the eastern DPS indicate movement of western sea lions east of the 144° line, the mixed part of the range remains small (Jemison *et al.* 2013). Based on observations by ADF&G over the last decade this project is unlikely to impact wDPS individuals. A recent IHA application for the Haines Ferry Terminal indicated that using branded animal ratios, a conservative estimate of 1.6 percent eDPS individuals may occur at the Gran Point haulout based on personal communication the applicant had with the Alaska Regional Office (shown in Figure 5 in the application). To be conservative it is assumed that 2 percent of the Steller sea lions at in this project area may be from the wDPS.

Harbor Porpoise

In Alaska, harbor porpoises are currently divided into three stocks, based primarily on geography: (1) The Southeast Alaska stock—occurring from the northern border of British Columbia to Cape Suckling, Alaska, (2) the Gulf of Alaska stock—occurring from Cape Suckling to Unimak Pass, and (3) the Bering Sea stock—occurring throughout the Aleutian Islands and all waters north of Unimak Pass. Only the Southeast Alaska stock is considered in this proposed IHA because the other stocks are not found in the geographic area under consideration.

There are no subsistence uses of this species; however, as noted above, entanglement in fishing gear contributes to human-caused mortality and serious injury. Muto *et al.* (2018) also reports harbor porpoise are vulnerable to physical modifications of nearshore habitats resulting from urban and industrial development (including waste management and nonpoint source runoff) and activities such as construction of docks and other over-water structures, filling of shallow areas, dredging, and noise (Linnenschmidt *et al.,* 2013).

Information on harbor porpoise abundance and distribution in Auke Bay has not been systematically collected. While sightings of harbor porpoise in Statter Harbor are rare, they are an inconspicuous species, often traveling alone or in pairs, difficult for marine mammal observers to sight, making any approach to a monitoring zone potentially difficult to detect. The applicant did not request authorization of take of harbor porpoise because they are not known to regularly occur in the vicinity of the project site. However, because the species has been rarely observed in the area and due to the difficulty of implementing mitigation sufficient to avoid incidental take of animals that do occur in the area, we have determined it appropriate to propose authorization of take of harbor porpoise

Marine Mammal Hearing

Hearing is the most important sensory modality for marine mammals underwater, and exposure to anthropogenic sound can have deleterious effects. To appropriately assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals are able to hear. Current data indicate that not all marine mammal species have equal hearing capabilities (*e.g.,* Richardson *et al.,* 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008). To reflect this, Southall *et al.* (2007) recommended that marine mammals be divided into functional hearing groups based on directly measured or estimated hearing ranges on the basis of available behavioral response data, audiograms derived using auditory evoked potential techniques, anatomical modeling, and other data. Note that no direct measurements of hearing ability have been successfully completed for mysticetes (*i.e.,* low-frequency cetaceans). Subsequently, NMFS (2018) described generalized hearing ranges for these marine mammal hearing groups. Generalized hearing ranges were chosen based on the approximately 65 decibels (dB) threshold from the normalized composite audiograms, with the exception for lower limits for low-frequency cetaceans where the lower bound was deemed to be biologically implausible and the lower bound from Southall *et al.* (2007) retained. The functional groups and the associated frequencies are indicated below (note that these frequency ranges correspond to the range for the composite group, with the entire range not necessarily reflecting the capabilities of every species within that group):

- Low-frequency cetaceans (mysticetes): generalized hearing is estimated to occur between approximately 7 hertz (Hz) and 35 kilohertz (kHz);
- Mid-frequency cetaceans (larger toothed whales, beaked whales, and most delphinids): generalized hearing is estimated to occur between approximately 150 Hz and 160 kHz;
- High-frequency cetaceans (porpoises, river dolphins, and members of the genera *Kogia* and Cephalorhynchus; including two members of the genus Lagenorhynchus,

on the basis of recent echolocation data and genetic data): generalized hearing is estimated to occur between approximately 275 Hz and 160 kHz.

- Pinnipeds in water; Phocidae (true seals): generalized hearing is estimated to occur between approximately 50 Hz to 86 kHz;
- Pinnipeds in water; Otariidae (eared seals): generalized hearing is estimated to occur between 60 Hz and 39 kHz.

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

For more detail concerning these groups and associated frequency ranges, please see NMFS (2018) for a review of available information. Four marine mammal species (two cetacean and two pinniped (one otariid and one phocid) species) have the reasonable potential to co-occur with the proposed survey activities. Please refer to Table 1. Of the cetacean species that may be present, humpback whales are classified as low-frequency cetaceans, and harbor porpoise are classified as high-frequency cetaceans.

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

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

Description of Sound

Sound travels in waves, the basic components of which are frequency, wavelength, velocity, and amplitude. Frequency is the number of pressure waves that pass by a reference point per unit of time and is measured in Hz or cycles per second. Wavelength is the distance between two peaks of a sound wave; lower frequency sounds have longer wavelengths than higher frequency sounds. Amplitude is the height of the sound pressure wave or the 'loudness' of a sound and is typically measured using the dB scale. A dB is the ratio between a measured pressure (with sound) and a reference pressure (sound at a constant pressure, established by scientific standards). It is a logarithmic unit that accounts for large variations in amplitude; therefore, relatively small changes in dB ratings correspond to large changes in sound pressure. When referring to SPLs(the sound force per unit area), sound is referenced in the context of underwater sound pressure to one microPascal (μPa). One pascal is the pressure resulting from a force of one newton exerted over an area of one square meter. The source level (SL) represents the sound level at a distance of 1 m from the source (referenced to 1 μPa). The received level is the sound level at the listener's position. Note that all underwater sound levels in this document are referenced to a pressure of 1 μPa and all airborne sound levels in this document are referenced to a pressure of 20 μPa.

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

When underwater objects vibrate or activity occurs, sound-pressure waves are created. These waves alternately compress and decompress the water as the sound wave travels. Underwater sound waves radiate in all directions away from the source (similar to ripples on the surface of a pond), except in cases where the source is directional. The compressions and decompressions associated with sound waves are detected as changes in pressure by aquatic life and man-made sound receptors such as hydrophones.

Even in the absence of sound from the specified activity, the underwater environment is typically loud due to ambient sound. Ambient sound is defined as environmental background sound levels lacking a single source or point (Richardson *et al.,* 1995), and the sound level of a region is defined by the total acoustical energy being generated by known and unknown sources. These sources may include physical (*e.g.,* waves, earthquakes, ice, atmospheric sound), biological (*e.g.,* sounds produced by marine mammals, fish, and invertebrates), and anthropogenic sound (*e.g.,* vessels, dredging, aircraft, construction). A number of sources contribute to ambient sound, including the following (Richardson *et al.,* 1995):

- *Wind and waves:* The complex interactions between wind and water surface, including processes such as breaking waves and wave-induced bubble oscillations and cavitation, are a main source of naturally occurring ambient noise for frequencies between 200 Hz and 50 kilohertz (kHz) (Mitson 1995). In general, ambient sound levels tend to increase with increasing wind speed and wave height. Surf noise becomes important near shore, with measurements collected at a distance of 8.5 km from shore showing an increase of 10 dB in the 100 to 700 Hz band during heavy surf conditions;
- *Precipitation:* Sound from rain and hail impacting the water surface can become an important component of total noise at frequencies above 500 Hz, and possibly down to 100 Hz during quiet times;
- *Biological:* Marine mammals can contribute significantly to ambient noise levels, as can some fish and shrimp. The frequency band for biological contributions is from approximately 12 Hz to over 100 kHz; and
- *Anthropogenic:* Sources of ambient noise related to human activity include transportation (surface vessels and aircraft), dredging and construction, oil and gas drilling and production, seismic surveys, sonar, explosions, and ocean acoustic studies. Shipping noise typically dominates the total ambient noise for frequencies between 20 and 300 Hz. In general, the frequencies of anthropogenic sounds are below 1 kHz and, if higher frequency sound levels are created, they attenuate rapidly (Richardson *et al.,* 1995). Sound from identifiable anthropogenic sources other than the activity of interest (*e.g.,* a passing vessel) is sometimes termed background sound, as opposed to ambient sound.

The sum of the various natural and anthropogenic sound sources at any given location and time—which comprise ''ambient'' or ''background'' sound—depends not only on the source levels (as determined by current weather conditions and levels of biological and shipping activity) but also on the ability of sound to propagate through the environment. In turn, sound propagation is dependent on the

spatially and temporally varying properties of the water column and sea floor, and is frequency-dependent. As a result of the dependence on a large number of varying factors, ambient sound levels can be expected to vary widely over both coarse and fine spatial and temporal scales. Sound levels at a given frequency and location can vary by 10–20 dB from day to day (Richardson *et al.,* 1995). The result is that, depending on the source type and its intensity, sound from the specified activity may be a negligible addition to the local environment or could form a distinctive signal that may affect marine mammals.

Description of Sounds Sources

In-water construction activities associated with the project would include vibratory pile removal, dredging, and blasting. Sound sources can be divided into broad categories based on various criteria or for various purposes. With regard to temporal properties, sounds are generally considered to be either continuous or transient (*i.e.,* intermittent). Continuous sounds are simply those whose sound pressure level remains above ambient sound during the observation period (ANSI, 2005). Intermittent sounds are defined as sounds with interrupted levels of low or no sound (NIOSH, 1998). Sound sources may also be categorized based on their potential to damage hearing. The sounds produced by these activities fall into one of two general sound types: Impulsive and non-impulsive (defined in the following). The distinction between these two sound types is important because they have differing potential to cause physical effects, particularly with regard to hearing (*e.g.,* Ward 1997 in Southall *et al.,* 2007). Please see Southall *et al.* (2007) for an in-depth discussion of these concepts.

Impulsive sound sources (*e.g.,* explosions, gunshots, sonic booms, impact pile driving) are by definition intermittent, and produce signals that are brief (typically considered to be less than one second), broadband, atonal transients (ANSI 1986; Harris 1998; NIOSH 1998; ISO 2003; ANSI 2005) and occur either as isolated events or repeated in some succession. Impulsive sounds are all characterized by a relatively rapid rise from ambient pressure to a maximal pressure value followed by a rapid decay period that may include a period of diminishing, oscillating maximal and minimal pressures, and generally have an increased capacity to induce physical injury as compared with sounds that lack these features.

Non-impulsive sounds can be tonal, narrowband, or broadband, brief or prolonged, and may be either continuous or intermittent (ANSI 1995; NIOSH 1998). Some of these non-impulsive sounds can be transient signals of short duration but without the essential properties of impulses (*e.g.,* rapid rise time). Examples of non-impulsive sounds include those produced by vessels, aircraft, machinery operations such as drilling or dredging, vibratory pile driving, and active sonar systems. The duration of such sounds, as received at a distance, can be greatly extended in a highly reverberant environment.

The use of explosives for two days of blasting, is considered an impulsive sound, which is characterized by a short duration, abrupt onset, and rapid decay. Exposure to high intensity sound may result in behavioral reactions and auditory effects such as a noise-induced threshold shift—an increase in the auditory threshold after exposure to noise (Finneran *et al.,* 2005). The proposed project also includes the use of various low-level non-impulsive acoustic sources including dredging, that would consistently emit noise for an extended period of time (up to 45 days) and increase vessel traffic in the vicinity of a small harbor. The source levels as well as impacts from dredging and fill placement activities are sources with generally lower source levels than many other sources we consider and are not thought to be dissimilar to ambient noise levels in an area with sustained anthropogenic activity and vessel traffic, such as Statter Harbor, and may range from having the potential to cause Level B harassment to exposure to noise that does not result in harassment. Here, we make conservative assessments of the potential to harass marine mammals incidental to the project and, in the Estimated Take section, accordingly propose to authorize take, by Level B harassment only for some of these lesser known sources.

Acoustic Impacts

Anthropogenic sounds cover a broad range of frequencies and sound levels and can have a range of highly variable impacts on marine life, from none or minor to potentially severe responses, depending on received levels, duration of exposure, behavioral context, and various other factors. The potential effects of underwater sound from active acoustic sources can potentially result in one or more of the following; temporary or permanent hearing impairment, non-auditory physical or physiological effects, behavioral disturbance, stress, and masking (Richardson *et al.,* 1995; Gordon *et al.,* 2004; Nowacek *et al.,* 2007; Southall *et al.,* 2007; Gotz *et al.,* 2009). The degree of effect is intrinsically related to the signal characteristics, received level, distance from the source, and duration of the sound exposure. In general, sudden, high level sounds can cause hearing loss, as can longer exposures to lower level sounds. Temporary or permanent loss of hearing will occur almost exclusively for noise within an animal's hearing range. We first describe specific manifestations of acoustic effects before providing discussion specific to the City of Juneau's construction activities.

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

We describe the more severe effects (*i.e.,* permanent hearing impairment, certain non-auditory physical or physiological effects) only briefly as we do not expect that there is a reasonable likelihood that the City of Juneau's activities may result in such effects (see below for further discussion). Marine mammals exposed to high-intensity sound, or to lower-intensity sound for prolonged periods, can experience hearing threshold shift (TS), which is the loss of hearing sensitivity at certain frequency ranges (Kastak *et al.,* 1999; Schlundt *et al.,* 2000; Finneran *et al.,* 2002, 2005b). TS can be permanent (PTS), in which case the loss of hearing sensitivity is not fully recoverable, or temporary (TTS), in which case the animal's hearing threshold would recover over time (Southall *et al.,* 2007). Repeated sound exposure that leads to TTS could cause PTS. In severe cases of PTS, there can be total or partial deafness, while in most cases the animal

has an impaired ability to hear sounds in specific frequency ranges (Kryter 1985).

When PTS occurs, there is physical damage to the sound receptors in the ear (*i.e.,* tissue damage), whereas TTS represents primarily tissue fatigue and is reversible (Southall *et al.,* 2007). In addition, other investigators have suggested that TTS is within the normal bounds of physiological variability and tolerance and does not represent physical injury (*e.g.,* Ward 1997). Therefore, NMFS does not consider TTS to constitute auditory injury.

Relationships between TTS and PTS thresholds have not been studied in marine mammals—PTS data exists only for a single harbor seal (Kastak *et al.,* 2008)—but are assumed to be similar to those in humans and other terrestrial mammals. PTS typically occurs at exposure levels at least several dB above that which induces mild TTS: a 40–dB threshold shift approximates PTS onset; *e.g.,* Kryter *et al.,* 1966; Miller, 1974), whereas a 6–dB threshold shift approximates TTS onset (*e.g.,* Southall *et al.,* 2007). Based on data from terrestrial mammals, a precautionary assumption is that the PTS thresholds for impulse sounds (such as bombs) are at least 6 dB higher than the TTS threshold on a peak-pressure basis and PTS cumulative sound exposure level thresholds are 15 to 20 dB higher than TTS cumulative sound exposure level thresholds (Southall *et al.,* 2007). Given the higher level of sound or longer exposure duration necessary to cause PTS as compared with TTS, it is considerably less likely that PTS could occur.

TTS is the mildest form of hearing impairment that can occur during exposure to sound (Kryter 1985). While experiencing TTS, the hearing threshold rises, and a sound must be at a higher level in order to be heard. In terrestrial and marine mammals, TTS can last from minutes or hours to days (in cases of strong TTS). In many cases, hearing sensitivity recovers rapidly after exposure to the sound ends. Few data on sound levels and durations necessary to elicit mild TTS have been obtained for marine mammals.

Marine mammal hearing plays a critical role in communication with conspecifics, and interpretation of environmental cues for purposes such as predator avoidance and prey capture. Depending on the degree (elevation of threshold in dB), duration (*i.e.,* recovery time), and frequency range of TTS, and the context in which it is experienced, TTS can have effects on marine mammals ranging from discountable to serious. For example, a marine mammal may be able to readily compensate for a brief, relatively small amount of TTS in a non-critical frequency range that occurs during a time where ambient noise is lower and there are not as many competing sounds present. Alternatively, a larger amount and longer duration of TTS sustained during a time when communication is critical for successful mother/calf interactions could have more serious impacts.

Currently, TTS data only exist for four species of cetaceans (bottlenose dolphin (*Tursiops truncatus*), beluga whale (*Delphinapterus leucas*), harbor porpoise, and Yangtze finless porpoise (*Neophocoena asiaeorientalis*) and three species of pinnipeds (northern elephant seal (*Mirounga angustirostris*), harbor seal, and California sea lion (*Zalophus californianus*)) exposed to a limited number of sound sources (*i.e.,* mostly tones and octave-band noise) in laboratory settings (*e.g.,* Finneran *et al.,* 2002; Nachtigall *et al.,* 2004; Kastak *et al.,* 2005; Lucke *et al.,* 2009; Popov *et al.,* 2011). In general, harbor seals (Kastak *et al.,* 2005; Kastelein *et al.,* 2012a) and harbor porpoises (Lucke *et al.,* 2009; Kastelein *et al.,* 2012b) have a lower TTS onset than other measured pinniped or cetacean species. Additionally, the existing marine mammal TTS data come from a limited number of individuals within these species. There are no data available on noise-induced hearing loss for mysticetes. For summaries of data on TTS in marine mammals or for further discussion of TTS onset thresholds, please see Finneran (2015).

Physiological Effects

In addition to PTS and TTS, there is a potential for non-auditory physiological effects or injuries that theoretically might occur in marine mammals exposed to high level underwater sound or as a secondary effect of extreme behavioral reactions (*e.g.,* change in dive profile as a result of an avoidance reaction) caused by exposure to sound. These impacts can include neurological effects, bubble formation, resonance effects, and other types of organ or tissue damage (Cox *et al.,* 2006; Southall *et al.,* 2007; Zimmer and Tyack 2007). The City of Juneau's activities involve the use of devices such as explosives, which has been associated with these types of effects. The underwater explosion will send a shock wave and blast noise through the water, release gaseous by-products, create an oscillating bubble, and cause a plume of water to shoot up from the water surface. The shock wave and blast noise are of most concern to marine animals. The effects of an underwater explosion on a marine mammal depends on many factors, including the size, type, and depth of both the animal and the explosive charge; the depth of the water column; and the standoff distance between the charge and the animal, as well as the sound propagation properties of the environment. Potential impacts can range from brief effects (such as behavioral disturbance), tactile perception, physical discomfort, slight injury of the internal organs and the auditory system, to death of the animal (Yelverton *et al.,* 1973; DoN, 2001). Non-lethal injury includes slight injury to internal organs and the auditory system; however, delayed lethality can be a result of individual or cumulative sublethal injuries (DoN, 2001). Immediate lethal injury would be a result of massive combined trauma to internal organs as a direct result of proximity to the point of detonation (DoN 2001). Generally, the higher the level of impulse and pressure level exposure, the more severe the impact to an individual.

Injuries resulting from a shock wave take place at boundaries between tissues of different density. Different velocities are imparted to tissues of different densities, and this can lead to their physical disruption. Blast effects are greatest at the gas-liquid interface (Landsberg 2000). Gas-containing organs, particularly the lungs and gastrointestinal (GI) tract, are especially susceptible (Goertner 1982; Hill 1978; Yelverton *et al.,* 1973). In addition, gas-containing organs including the nasal sacs, larynx, pharynx, trachea, and lungs may be damaged by compression/expansion caused by the oscillations of the blast gas bubble. Intestinal walls can bruise or rupture, with subsequent hemorrhage and escape of gut contents into the body cavity. Less severe GI tract injuries include contusions, petechiae (small red or purple spots caused by bleeding in the skin), and slight hemorrhaging (Yelverton *et al.,* 1973).

Because the ears are the most sensitive to pressure, they are the organs most sensitive to injury (Ketten 2000). Sound-related damage associated with blast noise can be theoretically distinct from injury from the shock wave, particularly farther from the explosion. If an animal is able to hear a noise, at some level it can damage its hearing by causing decreased sensitivity (Ketten 1995). Sound-related trauma can be lethal or sublethal. Lethal impacts are those that result in immediate death or serious debilitation in or near an intense source and are not, technically, pure acoustic trauma (Ketten 1995). Sublethal impacts include hearing loss, which is caused by exposures to perceptible

sounds. Severe damage (from the shock wave) to the ears includes tympanic membrane rupture, fracture of the ossicles, damage to the cochlea, hemorrhage, and cerebrospinal fluid leakage into the middle ear. Moderate injury implies partial hearing loss due to tympanic membrane rupture and blood in the middle ear. Permanent hearing loss also can occur when the hair cells are damaged by one very loud event, as well as by prolonged exposure to a loud noise or chronic exposure to noise. The level of impact from blasts depends on both an animal's location and, at outer zones, on its sensitivity to the residual noise (Ketten 1995).

The above discussion concerning underwater explosions only pertains to open water detonations in a free field without mitigation. Therefore, given the low weight of the charges and small size of the detonation relative to large open water detonations in conjunction with monitoring and mitigation measures discussed below, The City of Juneau's two blasting events are not likely to have injury or mortality effects on marine mammals in the project vicinity. Instead, NMFS considers that The City of Juneau 's blasts are most likely to cause behavioral harassment and may cause TTS in a few individual marine mammals, as discussed below.

Behavioral Effects

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

Habituation can occur when an animal's response to a stimulus wanes with repeated exposure, usually in the absence of unpleasant associated events (Wartzok *et al.,* 2003). Animals are most likely to habituate to sounds that are predictable and unvarying. It is important to note that habituation is appropriately considered as a ''progressive reduction in response to stimuli that are perceived as neither aversive nor beneficial,'' rather than as, more generally, moderation in response to human disturbance (Bejder *et al.,* 2009). The opposite process is sensitization, when an unpleasant experience leads to subsequent responses, often in the form of avoidance, at a lower level of exposure. As noted, behavioral state may affect the type of response. For example, animals that are resting may show greater behavioral change in response to disturbing sound levels than animals that are highly motivated to remain in an area for feeding (Richardson *et al.,* 1995; NRC 2003; Wartzok *et al.,* 2003). Controlled experiments with captive marine mammals have showed pronounced behavioral reactions, including avoidance of loud sound sources (Ridgway *et al.,* 1997; Finneran *et al.,* 2003). Observed responses of wild marine mammals to loud, intermittent sound sources (typically seismic airguns or acoustic harassment devices) have been varied but often consist of avoidance behavior or other behavioral changes suggesting discomfort (Morton and Symonds 2002; see also Richardson *et al.,* 1995; Nowacek *et al.,* 2007).

Available studies show wide variation in response to underwater sound; therefore, it is difficult to predict specifically how any given sound in a particular instance might affect marine mammals perceiving the signal. If a marine mammal does react briefly to an underwater sound by changing its behavior or moving a small distance, the impacts of the change are unlikely to be significant to the individual, *let al*one the stock or population. However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on individuals and populations could be significant (*e.g.,* Lusseau and Bejder 2007; Weilgart 2007; NRC 2005). This highlights the importance of assessing the context of the acoustic effects alongside the received levels anticipated. Severity of effects from a response to an acoustic stimuli can likely vary based on the context in which the stimuli was received, particularly if it occurred during a biologically sensitive temporal or spatial point in the life history of the animal. There are broad categories of potential response, which we describe in greater detail here, that include alteration of dive behavior, alteration of foraging behavior, effects to breathing, interference with or alteration of vocalization, avoidance, and flight.

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

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

Variations in respiration naturally vary with different behaviors and alterations to breathing rate as a function of acoustic exposure can be expected to co-occur with other behavioral reactions, such as a flight response or an alteration in diving. However, respiration rates in and of themselves may be representative of annoyance or an acute stress response. Various studies have shown that respiration rates may either be unaffected or could increase, depending on the species and signal characteristics, again highlighting the importance in understanding species differences in the tolerance of underwater noise when determining the potential for impacts

resulting from anthropogenic sound exposure (*e.g.,* Kastelein *et al.,* 2001, 2005b, 2006; Gailey *et al.,* 2007).

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

Avoidance is the displacement of an individual from an area or migration path because of the presence of a sound or other stressors, and is one of the most obvious manifestations of disturbance in marine mammals (Richardson *et al.,* 1995). For example, gray whales (Eschrictius robustus) are known to change direction—deflecting from customary migratory paths—in order to avoid noise from seismic surveys (Malme *et al.,* 1984). Avoidance may be short-term, with animals returning to the area once the noise has ceased (*e.g.,* Bowles *et al.,* 1994; Goold, 1996; Stone *et al.,* 2000; Morton and Symonds, 2002; Gailey *et al.,* 2007). Longer-term displacement is possible, however, which may lead to changes in abundance or distribution patterns of the affected species in the affected region if habituation to the presence of the sound does not occur (*e.g.,* Blackwell *et al.,* 2004; Bejder *et al.,* 2006; Teilmann *et al.,* 2006).

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

Behavioral disturbance can also impact marine mammals in more subtle ways. Increased vigilance may result in costs related to diversion of focus and attention (*i.e.,* when a response consists of increased vigilance, it may come at the cost of decreased attention to other critical behaviors such as foraging or resting). These effects have generally not been demonstrated for marine mammals, but studies involving fish and terrestrial animals have shown that increased vigilance may substantially reduce feeding rates (*e.g.,* Beauchamp and Livoreil 1997; Fritz *et al.,* 2002; Purser and Radford 2011). In addition, chronic disturbance can cause population declines through reduction of fitness (*e.g.,* decline in body condition) and subsequent reduction in reproductive success, survival, or both (*e.g.,* Harrington and Veitch, 1992; Daan *et al.,* 1996; Bradshaw *et al.,* 1998). However, Ridgway *et al.* (2006) reported that increased vigilance in bottlenose dolphins exposed to sound over a five-day period did not cause any sleep deprivation or stress effects.

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

Stress Response

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

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

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

Relationships between these physiological mechanisms, animal behavior, and the costs of stress responses are well studied through controlled experiments and for both laboratory and free-ranging animals (*e.g.,* Holberton *et al.,* 1996; Hood *et al.,* 1998; Jessop *et al.,* 2003; Krausman *et al.,* 2004; Lankford *et al.,* 2005). Stress responses due to exposure to anthropogenic sounds or other stressors and their effects on marine mammals have also been reviewed (Fair and Becker 2000; Romano *et al.,* 2002b) and, more rarely, studied in wild populations (*e.g.,* Romano *et al.,* 2002a). For example, Rolland *et al.* (2012) found that noise reduction from reduced ship traffic in the Bay of Fundy was associated with decreased stress in North Atlantic right whales. These and

other studies lead to a reasonable expectation that some marine mammals will experience physiological stress responses upon exposure to acoustic stressors and that it is possible that some of these would be classified as ''distress.'' In addition, any animal experiencing TTS would likely also experience stress responses (NRC, 2003).

Acoustic Effects, Underwater

The effects of sounds from The City of Juneau's proposed activities might include one or more of the following: Temporary or permanent hearing impairment, non-auditory physical or physiological effects, behavioral disturbance, and masking (Richardson *et al.,* 1995; Gordon *et al.,* 2003; Nowacek *et al.,* 2007; Southall *et al.,* 2007). The effects of pile removal or dredging on marine mammals are dependent on several factors, including the type and depth of the animal; the pile size and type, and the intensity and duration of the pile removal or dredging sound; the substrate; the standoff distance between the pile and the animal; and the sound propagation properties of the environment. Impacts to marine mammals from pile removal and dredging activities are expected to result primarily from acoustic pathways. As such, the degree of effect is intrinsically related to the frequency, received level, and duration of the sound exposure, which are in turn influenced by the distance between the animal and the source. The further away from the source, the less intense the exposure should be. The substrate and depth of the habitat affect the sound propagation properties of the environment. The characteristics of dredging noise are such that there is a clear impulse peak, from the impact of the dredge making contact with the substrate, but then there is a prolonged period of sound which is the noise of the continual operation of the dredge delving the sediment. As such, we have chosen to consider the characteristics noise as a continuous source despite the impulse at the beginning of the waveform characterizing dredging noise. In addition, substrates that are soft (*e.g.,* sand) would absorb or attenuate the sound more readily than hard substrates (*e.g.,* rock), which may reflect the acoustic wave. Soft porous substrates would also likely require less time to extract the pile or dredge the substrate, and possibly less forceful equipment, which would ultimately decrease the intensity of the acoustic source.

In the absence of mitigation, impacts to marine species could be expected to include physiological and behavioral responses to the acoustic signature (Viada *et al.,* 2008). Potential effects from impulsive sound sources like blasting can range in severity from effects such as behavioral disturbance to temporary or permanent hearing impairment (Yelverton *et al.,* 1973). Due to the nature of the sounds involved in the project, behavioral disturbance is the most likely effect from the proposed activity. Marine mammals exposed to high intensity sound repeatedly or for prolonged periods can experience hearing threshold shifts. PTS constitutes injury, but TTS does not (Southall *et al.,* 2007). Due to the use mitigation measures discussed in detail in the Proposed Mitigation Section, it is unlikely but possible that PTS could occur from blasting.

Disturbance Reactions

Responses to continuous sound, such as vibratory pile installation, have not been documented as well as responses to intermittent sounds. With pile removal as well as dredging activities, it is likely that the onset of sound sources could result in temporary, short-term changes in an animal's typical behavior and/or avoidance of the affected area. These behavioral changes may include (Richardson *et al.,* 1995): Changing durations of surfacing and dives, number of blows per surfacing, or moving direction and/or speed; reduced/increased vocal activities; changing/cessation of certain behavioral activities (such as socializing or feeding); visible startle response or aggressive behavior (such as tail/fluke slapping or jaw clapping); avoidance of areas where sound sources are located; and/or flight responses (*e.g.,* pinnipeds flushing into water from haulouts or rookeries). Pinnipeds may increase their haul out time, possibly to avoid in-water disturbance (Thorson and Reyff 2006). If a marine mammal responds to a stimulus by changing its behavior (*e.g.,* through relatively minor changes in locomotion direction/speed or vocalization behavior), the response may or may not constitute taking at the individual level, and is unlikely to affect the stock or the species as a whole. However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on animals, and if so potentially on the stock or species, could potentially be significant (*e.g.,* Lusseau and Bejder 2007; Weilgart 2007).

The biological significance of many of these behavioral disturbances is difficult to predict, especially if the detected disturbances appear minor. However, the consequences of behavioral modification could be biologically significant if the change affects growth, survival, or reproduction. Significant behavioral modifications that could potentially lead to effects on growth, survival, or reproduction include:

- Drastic changes in diving/surfacing patterns (such as those thought to cause beaked whale stranding due to exposure to military mid-frequency tactical sonar);
- Longer-term habitat abandonment due to loss of desirable acoustic environment; and
- Longer-term cessation of feeding or social interaction.

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

Auditory Masking

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

Under certain circumstances, marine mammals experiencing significant masking could also be impaired from maximizing their performance fitness in survival and reproduction. Therefore, when the coincident (masking) sound is man-made, it may be considered harassment when disrupting or altering critical behaviors. It is important to distinguish TTS and PTS, which persist after the sound exposure, from masking, which occurs during the sound exposure. Because masking (without resulting in TS) is not associated with

abnormal physiological function, it is not considered a physiological effect, but rather a potential behavioral effect.

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

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

Anticipated Effects on Habitat

The proposed activities at the project area would not result in permanent negative impacts to habitats used directly by marine mammals, but may have potential short-term impacts to food sources such as forage fish and may affect acoustic habitat. There are no known foraging hotspots or other ocean bottom structure of significant biological importance to marine mammals present in the marine waters of the project area during the construction window other than the occurrence of the foraging BIA for humpback whales. While humpbacks are known to feed in Statter Harbor, this is a small portion of the overall area designated as important. The small portion of the BIA affected by the construction noise, in conjunction with the short temporal scale of construction activity (57 days, only in daylight hours) make it unlikely the effects of the construction will significantly alter the foraging habitat of humpbacks in southeast Alaska. Therefore, the main impact issue associated with the proposed activity would be temporarily elevated sound levels and the associated direct effects on marine mammals, as discussed previously in this document. The primary potential acoustic impacts to marine mammal habitat are associated with elevated sound levels produced by pile removal, dredging, and blasting in the area. However, other potential impacts to the surrounding habitat from physical disturbance are also possible.

In-Water Construction Effects on Potential Prey (Fish)

Construction activities would produce continuous (*i.e.,* vibratory pile removal and dredging) and pulsed (blasting) sounds. Fish react to sounds that are especially strong and/or intermittent low-frequency sounds. Short duration, sharp sounds can cause overt or subtle changes in fish behavior and local distribution. Hastings and Popper (2005) identified several studies that suggest fish may relocate to avoid certain areas of sound energy. Additional studies have documented effects of impulsive sounds such as pile driving on fish, although several are based on studies in support of large, multiyear bridge construction projects (*e.g.,* Scholik and Yan 2001, 2002; Popper and Hastings 2009). Sound pulses at received levels of 160 dB may cause subtle changes in fish behavior. SPLs of 180 dB may cause noticeable changes in behavior (Pearson *et al.,* 1992; Skalski *et al.,* 1992). SPLs of sufficient strength have been known to cause injury to fish and fish mortality.

The most likely impact to fish from pile removal and dredging activities at the project area would be temporary behavioral avoidance of the area. The duration of fish avoidance of this area after pile driving stops is unknown, but a rapid return to normal recruitment, distribution and behavior is anticipated. While impacts from blasting to fish are more severe, including barotrauma and mortality, the blast will last approximately one second on each of two days, making the duration of this impact short term. In general, impacts to marine mammal prey species are expected to be minor and temporary due to the short timeframe for the project.

Effects on Potential Foraging Habitat

The area likely impacted by the project is relatively small compared to the available habitat in Auke Bay (*e.g.,* most of the impacted area is limited near the northwest corner of the bay). Avoidance by potential prey (*i.e.,* fish) of the immediate area due to the temporary loss of this foraging habitat is also possible. The duration of fish avoidance of this area after construction activity stops is unknown, but a rapid return to normal recruitment, distribution and behavior is anticipated. Any behavioral avoidance by fish of the disturbed area would still leave significantly large areas of fish and marine mammal foraging habitat in the nearby vicinity in Auke Bay.

The duration of the construction activities is relatively short. The construction window is for a maximum of 57 days and each day, construction activities would occur for less than half of the day. Impacts to habitat and prey are expected to be minimal based on the short duration of activities.

In summary, given the short daily duration of sound associated with individual construction activities and the relatively small areas being affected, the proposed actions are not likely to have a permanent, adverse effect on any fish habitat, or populations of fish species. Thus, any impacts to marine mammal habitat are not expected to cause significant or long-term consequences for individual marine mammals or their populations.

Estimated Take

This section provides an estimate of the number of incidental takes proposed for authorization through this IHA, which will inform both NMFS' consideration of ''small numbers'' and the negligible impact determination.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Authorized takes would primarily be by Level B harassment, as use of the explosives, vibratory pile removal, and dredging has the potential to result in disruption of behavioral patterns for individual marine mammals. There is also some potential for auditory injury and (Level A harassment) to result from blasting, primarily for high frequency species and phocids because predicted auditory injury zones are larger than for low-frequency species and otariids. The proposed mitigation and monitoring measures are expected to minimize the severity of such taking to the extent practicable.

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

Generally speaking, we estimate take by considering: (1) Acoustic thresholds above which NMFS believes the best available science indicates marine mammals will be behaviorally harassed or incur some degree of permanent hearing impairment; (2) the area or volume of water that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and, (4) and the number of days of activities. We note that while these basic factors can contribute to a basic calculation to provide an initial prediction of takes, additional information that can qualitatively inform take estimates is also sometimes available (*e.g.,* previous monitoring results or average group size). Below, we describe the factors considered here in more detail and present the proposed take estimate.

Acoustic Thresholds

Using the best available science, NMFS has developed acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to be behaviorally harassed (equated to Level B harassment) or to incur PTS of some degree (equated to Level A harassment). Thresholds have also been developed to identify the pressure levels above which animals may incur different types of tissue damage from exposure to pressure waves from explosive detonation.

Level B Harassment for non-explosive sources—Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source (*e.g.,* frequency, predictability, duty cycle), the environment (*e.g.,* bathymetry), and the receiving animals (hearing, motivation, experience, demography, behavioral context) and can be difficult to predict (Southall *et al.,* 2007, Ellison *et al.,* 2012). Based on what the available science indicates and the practical need to use a threshold based on a factor that is both predictable and measurable for most activities, NMFS uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. This threshold is not applied to single detonations as the sound is instantaneous in nature such that a behavioral harassment is not expected to result, although TTS may occur. NMFS predicts that marine mammals are likely to be behaviorally harassed in a manner we consider Level B harassment when exposed to underwater anthropogenic noise above received levels of 120 dB re 1 μPa (rms) for continuous (*e.g.,* vibratory pile-driving, drilling) and above 160 dB re 1 μPa (rms) for intermittent (*e.g.,* impact pile driving) sources.

The City of Juneau's proposed activity includes the use of continuous sounds (vibratory pile removal, dredging) and therefore the 120 dB re 1 μPa (rms) threshold for behavioral harassment is applicable. While the proposed activity also includes impulsive sounds (blasting), the 160 dB re 1 1 μPa (rms) threshold for behavioral harassment is not applicable, as behavioral harassment is not expected from single detonation events, although TTS is possible.

Level A harassment for non-explosive sources—NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Version 2.0) (Technical Guidance, 2018) identifies dual criteria to assess auditory injury (Level A harassment) to five different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive). The City of Juneau's proposed activity includes the use non-impulsive (dredging, vibratory pile removal) sources.

These thresholds are provided in the table below. The references, analysis, and methodology used in the development of the thresholds are described in NMFS 2018 Technical Guidance, which may be accessed at: *http://www.nmfs.noaa.gov/pr/acoustics/guidelines.htm.*

TABLE 2—THRESHOLDS IDENTIFYING THE ONSET OF PERMANENT THRESHOLD SHIFT

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

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

Note: Peak sound pressure (L_{pk}) has a reference value of 1μPa, and cumulative sound exposure (L_E) has a reference value of 1μPa^{2}s. In this Table, thresholds are abbreviated to reflect American National Standards Institute standards (ANSI 2013). However, peak sound pressure is defined by ANSI as incorporating frequency weighting, which is not the intent for this Technical Guidance. Hence, the subscript ''flat'' is being included to indicate peak sound pressure should be flat weighted or unweighted within the generalized hearing range. The subscript associated with cumulative sound exposure level thresholds indicates the designated marine mammal auditory weighting function (LF, MF, and HF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The cumulative sound exposure level thresholds could be exceeded in a multitude of ways (*i.e.,* varying exposure levels and durations, duty cycle). When possible, it is valuable for action proponents to indicate the conditions under which these acoustic thresholds will be exceeded.

Explosive sources—Based on the best available science, NMFS uses the acoustic and pressure thresholds indicated in Table 3 to predict the onset of behavioral harassment, PTS, tissue damage, and mortality.

Table 3. Explosive acoustic and pressure thresholds for marine mammals.

Group	Level B harassment		Level A harassment	Serious injury		Mortality
	Behavioral (multiple detonations)	TTS	PTS	Gastro-intestinal tract	Lung	
Low-freq cetacean	163 dB SEL	168 dB SEL or 213 dB SPL_{pk}	183 dB SEL or 219 dB SPL_{pk}	237 dB SPL	$39.1M^{1/3}(1+[D/10.081])^{1/2}$ Pa-sec where: M = mass of the animals in kg D = depth of animal in m	$91.4M^{1/3}(1+[D/10.081])^{1/2}$ Pa-sec where: M = mass of the animals in kg D = depth of animal in m
High-freq cetacean	135 dB SEL	140 dB SEL or 196 dB SPL_{pk}	155 dB SEL or 202 dB SPL_{pk}			
Phocidae	165 dB SEL	170 dB SEL or 212 dB SPL_{pk}	185 dB SEL or 218 dB SPL_{pk}			
Otariidae	183 dB SEL	188 dB SEL or 226 dB_{pk}	203 dB SEL or 232 dB SPL_{pk}			

Ensonified Area

Here, we describe operational and environmental parameters of the activity that will feed into identifying the area ensonified above the acoustic thresholds, which include source levels and transmission loss coefficient.

Vibratory removal—The closest known measurements of vibratory pile removal similar to this project are from the Kake Ferry Terminal project for vibratory extraction of an 18-in steel pile. The extraction of 18-in steel pipe pile using a vibratory hammer resulted in underwater noise levels reaching 156.2 dB RMS at 7 m (Denes *et al.* 2016). The pile diameters for the proposed project are smaller, thus the use of noise levels associated with the pile extraction at Kake may be somewhat conservative. For timber pile removal, the Seattle Pier 62/63 sound source verification report contains an appendix with source measurements at different distances for 63 individual pile removals (WSDOT, 2015). When the data are normalized to 10 m, the median source level is 152 dB RMS at 10 m.

Dredging—For dredging, sound source data was used from bucket dredging operations in Cook Inlet, Alaska (Dickerson *et al.* 2001). Dredging in that project consisted of six distinct events, including the bucket striking the channel bottom, bucket digging, winch in/out as the bucket is lowered/raised, dumping of the material on the barge and emptying the barge at the disposal site. Although the waveform of the bucket strike has a high peak sound pressure with rapid rise time and rapid decay (characteristics typical of an impulsive sound source), the duration of the source signal was longer than what is often considered for an impulsive sound source, about 50 seconds, which is the approximate duration of one continuous noise signal from the dredging equipment. The events following the initial waveform impulse were of longer duration and were non-impulsive in form and therefore dredging was analyzed as a continuous source. Dickerson *et al* (2001) took 104 SPL RMS measurements for the first five distinct phases of the dredging cycle and averaged them, including the impulse in the waveform of the dredge making contact with the substrate. These averages were distance corrected to determine an average SPL of 150.5 dB RMS at 1 m for the bucket dredging process, with an assumed maximum duration of up to 50 seconds, of non-impulsive, continuous noise.

Blasting—Historic data from an analog project were analyzed to create a conservative attenuation model for anticipated pressure levels from confined blasting in drilled shafts in underwater bedrock. Sound pressure data from the analog project was analyzed to compare source pressure levels to received impulse levels (Alaska Seismic, 2018). These models were used to predict distances to the peak level and impulse thresholds summarized above in Table 3. Cumulative source levels from the analog project were used in conjunction with the NMFS 2018 updated User Spreadsheet Tool for predicting threshold shift isopleths for multiple detonations, after being corrected to a 1-m reference source level. The median of 10 measurements, consisting of detonations ranging from 19 to 78 individual holes for the detonation, resulted in a source level of 227.98 dB single shot SEL.

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

a marine mammal remained at that distance the whole duration of the activity, it would not incur PTS. Inputs used in the User Spreadsheet, and the resulting isopleths are reported below.

TABLE 4—NMFS USER SPREADSHEET INPUTS

Spreadsheet tab used	Timber removal	Steel removal	Dredging	Blasting
	A.1: Vibratory pile driving	A.1: Vibratory pile driving	A: Stationary: non-impulsive, continuous	E.2: Explosives: impulsive, intermittent (multiple detonations)
Source Level (Single Strike/shot SEL)	.....	.....	.....	227.975
Source Level (RMS SPL)	152	156.2	150.5	.....
Weighting Factor Adjustment (kHz)	2.5	2.5	2	1
(a) Number of strikes/detonations in 1 h	.....	.....	.....	1
(a) Activity Duration (h) within 24-h period	.....	.....	11	1
Propagation (xLogR)	15	15	15	20
Distance of source level measurement (m) +	10	7	1	.....
# of piles/shots in a 24 h period	16	4	.....	1
Duration to drive (remove) a single pile (min)	20	20	.....	.....

When using the inputs from Table 4, the outputs generated are summarized below in Table 5.

TABLE 5—NMFS USER SPREADSHEET GENERATED OUTPUTS

[User Spreadsheet Output]

Source type	PTS Isopleth (meters)			
	Low-frequency cetaceans	High-frequency cetaceans	Phocid pinnipeds	Otariid pinnipeds
Timber removal	5.2	7.7	3.2	0.2
Steel Removal	2.8	4.1	1.7	0.1
Dredging	0.7	0.6	0.4	0.0
Blasting (SELcum) *	176	59.1	71.4	10.1
Blasting (PK) *	22.1	156.5	24.8	4.9
TTS Isopleth (meters)				
Blasting (SEL cum) *	989.8	332.3	401.7	56.9
Blasting (PK) *	44.1	312.2	49.5	9.9
Level B Behavioral Harassment Isopleth (meters)				
Timber removal	1359.36			
Steel removal	1813.14			
Dredging	107.98			

* Impulsive sounds have a dual metric threshold (SELcum and PK). Metric producing the largest isopleth should be used.

Marine Mammal Occurrence

In this section we provide the information about the presence, density, or group dynamics of marine mammals that will inform the take calculations. Reliable densities are not available for Statter Harbor or the Auke Bay area. Generalized densities for the North Pacific would not be applicable given the high variability in occurrence and density at specific inlets and harbors. Therefore, the applicant consulted opportunistic sightings data from oceanographic surveys in Auke Bay and sightings from Auke Bay Marine Station observation pier for this specific harbor to arrive at a number of animals expected to occur within the harbor per day. For humpback whales, it is assumed that a maximum of two animals per day are likely to be seen in the harbor. For Steller sea lions, the potential maximum daily occurrence of animals is 121 individuals within the harbor. For harbor seals, the maximum daily occurrence of animals is 52 individuals.

Take Calculation and Estimation

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

Because reliable densities are not available, the applicant requests take based on the above mentioned maximum number of animals that may occur in the harbor per day multiplied by the number of days of the activity. The applicant varied these calculations based on certain factors.

Humpback whale—Based on the size of the harassment zone for dredging, in combination with the Proposed Mitigation outlined below, the applicant does not expect humpback whales to approach the dredging vessel and therefore is not requesting take of humpback whales from dredging.

Because of the nature of blasting, there is no behavioral threshold associated with the activity, but TTS, which is a form of Level B harassment take, may occur. With a maximum take of two animals per day, multiplied by a maximum of 10 days of pile removal and two days of blasting (TTS), the applicant requests authorization of 24 Level B harassment takes of humpback whale.

Steller sea lion—It is estimated that a maximum of 121 Steller sea lions may be seen in Statter Harbor within one day. A maximum take of 121 animals per day for 10 days of pile removal is 1,210 Steller sea lions. Given the size of the Level B zone for dredging (108 m), it is possible Steller sea lions may approach the source vessel. However, given the small size of the zone, the applicant reduced the number of animals expected to be taken daily from dredging by 50 percent, to 60 Steller sea lions daily. A maximum of 60 takes per day for 45 days of dredging is 2,700 takes of Steller sea lion. For blasting, which is confined to the inner harbor, the TTS zone (57 m) is even smaller than the size of the dredging zone. Therefore, if the same maximum of 60 Stellers is assumed to be within the zone for two days of blasting, the result is a potential take of 120 Steller sea lions. No more than 20 of those Steller sea lions are assumed to be within range of the PTS blasting isopleths, with the remaining 100 takes potentially occurring in the TTS isopleth. While it is conservative to assume 20 Steller sea lions may occur within 10 meters of the blast source, they are regularly seen in the area and the explosives need to be detonated within a certain number of hours after being planted. It is possible that Stellers could approach the source and the detonation could no longer be delayed, exposing Steller sea lions to sound levels that may induce PTS. This adds to a total of 4,030 takes of Steller sea lion.

Harbor seal—The largest known group size to occur in Statter Harbor is 52 individuals, which is the maximum number of takes per day used in the take estimation section for harbor seals. For 10 days of pile removal, using an assumed rate of 52 individuals per day, the potential take of harbor seals is 520. For 45 days of dredging, the estimated daily take was reduced by half due to the small size of the isopleth, resulting in an estimate of 1,170 takes. For blasting, it is assumed no more than 11 harbor seals would enter the inner harbor on a given day and therefore could occur within 71 meters of the blasting source. This results in a potential 22 Level A harassment takes of harbor seal due to blasting across two days. For the TTS blasting zone, which is 400 meters, 52 harbor seals could occur in the harbor area and were used to estimate a potential 104 TTS takes of harbor seal across two days of blasting. Summed together, this would result in 1,186 takes of harbor seal.

Harbor porpoise—Very little is known about likelihood of occurrence of harbor porpoise in Statter Harbor but, as noted previously, they are rarely observed in the area and we assume that may occur, while their cryptic nature makes it difficult to mitigate all potential for take. If it is assumed one pair could be sighted per day for 10 days of pile removal, this would result in potential take of 20 harbor porpoise. If the same methodology is applied, assuming a pair per two days on 45 days of dredging because of the infrequency of harbor porpoise and the size of the isopleth, this would result in take of 44 estimated harbor porpoise. For two days of blasting, it is assumed two harbor porpoise may occur each day in the TTS zone, for four total TTS takes, and one pair on each day may appear in the PTS zone, resulting in four Level A harassment takes of harbor porpoise.

The total number of takes proposed are summarized in Table 6 below.

TABLE 6—TAKES PROPOSED TO BE AUTHORIZED

	Takes from pile removal	Takes from dredging	TTS takes from blasting	PTS takes from blasting	Total level B harassment takes	Total level A harassment takes
Humpback whale	20	0	4	0	24	0
Steller sea lion	1,210	2,700	100	20	4,010	20
Harbor seal	520	1,170	104	22	1,794	22
Harbor porpoise	20	44	4	4	68	4

Proposed Mitigation

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

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

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

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

In addition to the measures described later in this section, the City of Juneau will employ the following standard mitigation measures:

- Conduct a briefing between construction supervisors and crews and the marine mammal monitoring team prior to the start of construction, and when new personnel join the work, to explain responsibilities, communication

procedures, marine mammal monitoring protocol, and operational procedures;

- For in-water and over-water heavy machinery work, if a marine mammal comes within 10 m, operations must cease and vessels must reduce speed to the minimum level required to maintain steerage and safe working conditions. This 10 m shutdown encompasses the Level A harassment zone for pile removal and dredging and therefore this requirement is not listed separately.
- Work may only occur during daylight hours, when visual monitoring of marine mammals can be conducted;
- For those marine mammals for which Level B harassment take has not been requested, pile removal and dredging will shut down immediately when the animals are sighted approaching the monitoring zones;
- If take reaches the authorized limit for an authorized species, activity for which take is authorized will be stopped as these species approach the monitoring zones to avoid additional take of them.

The following measures would apply to The City of Juneau's mitigation requirements:

Establishment of Monitoring Zones for Level B— The City of Juneau will establish Level B monitoring zones or zones of influence (ZOI) which are areas where SPLs are equal to or exceed the 120 dB rms threshold during vibratory removal and dredging. Similar harassment monitoring zones will be established for the TTS isopleths associated with each functional hearing group for blasting activities. Monitoring zones provide utility for observing by establishing monitoring protocols for areas adjacent to the shutdown zones. Monitoring zones enable observers to be aware of and communicate the presence of marine mammals in the project area outside the shutdown zone and thus prepare for a potential cease of activity should the animal enter the shutdown zone. The Level B monitoring zones are depicted in Table 7.

TABLE 7—SHUTDOWN AND MONITORING ZONES

	Monitoring zones				Shutdown zones
Source	High frequency cetacean	Low frequency ceteacean	Phocid	Otariid	All species
Vibratory Removal—Steel	1,820 m	1,820 m	1,820 m	1,820 m	10 m
Vibratory Removal—Timber	1,360 m	1,360 m	1,360 m	1,360 m	10 m
Dredging	110 m	110 m	110 m	110 m	10 m
Blasting (PTS)	160 m	180 m	80 m	10 m	10 m
Blasting (TTS)	340 m	990 m	410 m	60 m	10 m

As shown, the largest Level B zone is equal to 1,820 m, making it unlikely that PSOs would be able to view the entire harassment area. Due to this, Level B exposures will be recorded and extrapolated based upon the number of observed take and the percentage of the Level B harassment zone that was not visible.

Pre-Activity Monitoring—Prior to the start of daily in-water activity, or whenever a break in activity of 30 minutes or longer occurs, the observer will observe the shutdown and monitoring zones for a period of 30 minutes. The shutdown zone will be cleared when a marine mammal has not been observed within the zone for that 30-minute period. If a marine mammal is observed within the shutdown zone, activity cannot proceed until the animal has left the zone or has not been observed for 15 minutes. If the Level B harassment zone has been observed for 30 minutes and non-permitted species are not present within the zone, activity can commence and work can continue even if visibility becomes impaired within the Level B zone. When a marine mammal permitted for Level B take is present in the Level B harassment zone, activities may begin and Level B take will be recorded. As stated above, if the entire Level B zone is not visible at the start of construction, activity can begin. If work ceases for more than 30 minutes, the pre-activity monitoring of both the Level B and shutdown zone will commence.

For blasting, the TTS zone will be monitored for a minimum of 30 minutes prior to detonating the blasts. If a marine mammal is sighted within the TTS zone, blasting will be delayed until the zone is clear of marine mammals for 30 minutes. This will continue as long as practicable within the constraints of the blasting design but not beyond sunset on the same day as the charges cannot lay dormant for more than 24 hours, which may force the detonation of the blast in the presence of marine mammals. Charges will be laid as early as possible in the morning.

Based on our evaluation of the applicant's proposed measures, NMFS has preliminarily determined that the proposed mitigation measures provide the means effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Proposed Monitoring and Reporting

In order to issue an IHA for an activity, Section 101(a)(5)(D) of the MMPA states that NMFS must set forth, requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.,* presence, abundance, distribution, density);
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) affected species (*e.g.,* life history, dive patterns); (3) co-occurrence of marine mammal species with the action; or (4) biological or behavioral context of exposure (*e.g.,* age, calving or feeding areas);
- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or

cumulative impacts from multiple stressors;

- How anticipated responses to stressors impact either: (1) Long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks;
- Effects on marine mammal habitat (*e.g.,* marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and
- Mitigation and monitoring effectiveness.

Visual Monitoring

Monitoring would be conducted 30 minutes before, during, and 30 minutes after construction activities. In addition, observers must record all incidents of marine mammal occurrence, regardless of distance from activity, and must document any behavioral reactions in concert with distance from construction activities.

PSOs would be land-based observers. Observers will be stationed at locations that provide adequate visual coverage for shutdown and monitoring zones. Potential observation locations are depicted in Figures 2 and 3 of the applicant's Marine Mammal Mitigation and Monitoring Plan. A minimum of one observer would be placed at a vantage point providing total coverage of the monitoring zones and for observation zones larger than 500 m, at least one other additional observer will be placed at the outermost float or other similar vantage point in order to observe the extend observation zone. Optimal observation locations will be selected based on visibility and the type of work occurring. All PSOs would be trained in marine mammal identification and behaviors and are required to have no other project-related tasks while conducting monitoring. In addition, monitoring will be conducted by qualified observers, who will be placed at the best vantage point(s) practicable to monitor for marine mammals and implement shutdown/delay procedures when applicable by calling for the shutdown to the hammer operator. Monitoring of construction activities must be conducted by qualified PSOs (see below), who must have no other assigned tasks during monitoring periods. The applicant must adhere to the following conditions when selecting observers:

- Independent PSOs must be used (*i.e.,* not construction personnel).
- At least one PSO must have prior experience working as a marine mammal observer during construction activities.
- Other PSOs may substitute education (degree in biological science or related field) or training for experience.
- Where a team of three or more PSOs are required, a lead observer or monitoring coordinator must be designated. The lead observer must have prior experience working as a marine mammal observer during construction.
- The applicant must submit PSO CVs for approval by NMFS.

The applicant must ensure that observers have the following additional qualifications:

- Ability to conduct field observations and collect data according to assigned protocols.
- Experience or training in the field identification of marine mammals, including the identification of behaviors.
- Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations.
- Writing skills sufficient to prepare a report of observations including but not limited to the number and species of marine mammals observed; dates and times when in-water construction activities were conducted; dates, times, and reason for implementation of mitigation (or why mitigation was not implemented when required); and marine mammal behavior.
- Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary.

A draft marine mammal monitoring report would be submitted to NMFS within 90 days after the completion of construction activities. It will include an overall description of work completed, a narrative regarding marine mammal sightings, and associated PSO data sheets. Specifically, the report must include:

- Date and time that monitored activity begins or ends;
- Construction activities occurring during each observation period;
- Weather parameters (*e.g.,* percent cover, visibility);
- Water conditions (*e.g.,* sea state, tide state);
- Species, numbers, and, if possible, sex and age class of marine mammals;
- Description of any observable marine mammal behavior patterns, including bearing and direction of travel and distance from construction activity;
- Distance from construction activities to marine mammals and distance from the marine mammals to the observation point;
- Locations of all marine mammal observations; and
- Other human activity in the area.

If no comments are received from NMFS within 30 days, the draft final report will constitute the final report. If comments are received, a final report addressing NMFS comments must be submitted within 30 days after receipt of comments.

In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by the IHA (if issued), such as a serious injury or mortality, The City of Juneau would immediately cease the specified activities and report the incident to the Office of Protected Resources, NMFS, and the Alaska Regional Stranding Coordinator. The report would include the following information:

- Description of the incident;
- Environmental conditions (*e.g.,* Beaufort sea state, visibility);
- Description of all marine mammal observations in the 24 hours preceding the incident;
- Species identification or description of the animal(s) involved;
- Fate of the animal(s); and
- Photographs or video footage of the animal(s) (if equipment is available).

Activities would not resume until NMFS is able to review the circumstances of the prohibited take. NMFS would work with The City of Juneau to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. The City of Juneau would not be able to resume their activities until notified by NMFS via letter, email, or telephone.

In the event that The City of Juneau discovers an injured or dead marine mammal, and the lead PSO determines that the cause of the injury or death is unknown and the death is relatively recent (*e.g.,* in less than a moderate state of decomposition as described in the next paragraph), the City of Juneau would immediately report the incident to the Office of Protected Resources, NMFS, and the Alaska Regional Stranding Coordinator. The report would include the same information identified in the paragraph above. Activities would be able to continue while NMFS reviews the circumstances of the incident. NMFS would work with the City of Juneau to determine whether modifications in the activities are appropriate.

In the event that the City of Juneau discovers an injured or dead marine mammal and the lead PSO determines that the injury or death is not associated with or related to the activities authorized in the IHA (*e.g.,* previously wounded animal, carcass with moderate

to advanced decomposition, or scavenger damage), the City of Juneau would report the incident to the Office of Protected Resources, NMFS, and the NMFS Alaska Stranding Hotline and/or by email to the Alaska Regional Stranding Coordinator, within 24 hours of the discovery. The City of Juneau would provide photographs, video footage (if available), or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Coordinator.

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through harassment, NMFS considers other factors, such as the likely nature of any responses (*e.g.,* intensity, duration), the context of any responses (*e.g.,* critical reproductive time or location, migration), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS's implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the environmental baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

As stated in the proposed mitigation section, shutdown zones equal to or exceeding Level A isopleths shown in Table 7 for all activities other than blasting will be implemented. Serious injury or mortality is not anticipated nor authorized. Behavioral responses of marine mammals to pile removal and dredging, if any, are expected to be mild and temporary due to the short term duration of the noise produced by the source as well as the relatively low source levels when compared with ambient levels in an area with high levels of anthropogenic activity. Given the short duration of noise-generating activities per day and that pile removal and dredging would occur for 55 days, any harassment would be temporary. The blasting is only proposed to occur across 2 days, with one blast scheduled on each day. In addition, the project includes generally low level sound sources, such as dredging and removal of piles much smaller than those frequently used in other construction projects. In addition, for all species except humpbacks, there are no known biologically important areas near the project zone that would be impacted by the construction activities. The region of Statter Harbor where the project will take place is located in a developed harbor area with regular marine vessel traffic. Although there is a resident harbor seal population, the area proposed for construction is not known to be of important biological significance such as used for breeding or foraging. In summary and as described above, the following factors primarily support our preliminary determination that the impacts resulting from this activity are not expected to adversely affect the species or stock through effects on annual rates of recruitment or survival:

- No mortality is anticipated or authorized;
- There are no known biologically important areas within the project area;
- The City of Juneau would implement mitigation measures such as shut down zones for all in-water and over-water activities;
- Monitoring reports from similar work in Alaska have documented little to no effect on individuals of the same species impacted by the specified activities;

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, NMFS preliminarily finds that the total marine mammal take from the proposed activity will have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted above, only small numbers of incidental take may be authorized under Sections 101(a)(5)(A) and (D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, where estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

Table 8 below shows take as a percent of population for each of the species listed above.

TABLE 8—SUMMARY OF THE ESTIMATED NUMBERS OF MARINE MAMMALS POTENTIALLY EXPOSED TO LEVEL A AND LEVEL B SOUND LEVELS

Species	DPS/Stock	Proposed number of level B takes by stock	Proposed number of level A takes by stock	Stock abundance	Percent of population[1]
Steller sea lion	Eastern DPS	3,930	20	41,638	9.5
	Western DPS	80	0	53,303	0.15
Harbor seal	Lynn Canal	1,794	22	9,478	19
Harbor porpoise	Southeast Alaska	68	4	975	6.67
Humpback whale	Central North Pacific Stock	24	0	10,103	0.24
Total		5,897	46	N/A	N/A

Table 8 presents the number of animals that could be exposed to received noise levels that may result in Level A or Level B take for the proposed work at Statter Harbor. Our analysis shows that less than one third of the

best available population estimate of each affected stock could be taken. Therefore, the numbers of animals authorized to be taken for all species would be considered small relative to the relevant stocks or populations even if each estimated taking occurred to a new individual—an extremely unlikely scenario. For pinnipeds, especially harbor seals and Steller sea lions, occurring in the vicinity of the project site, there will almost certainly be some overlap in individuals present day-to-day, and these takes are likely to occur only within some small portion of the overall regional stock.

Based on the analysis contained herein of the proposed activity (including the proposed mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS preliminarily finds that small numbers of marine mammals will be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. The proposed project is not known to occur in an important subsistence hunting area. It is a developed area with regular marine vessel traffic and the project is one year of a multi-year harbor improvement effort that is already underway. The work at this harbor has been publicized and public input has been solicited on the overall improvement.

Based on the description of the specified activity, the measures described to minimize adverse effects on the availability of marine mammals for subsistence purposes, and the proposed mitigation and monitoring measures, NMFS has preliminarily determined that there will not be an unmitigable adverse impact on subsistence uses from the City of Juneau's proposed activities.

Endangered Species Act (ESA)

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA: 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally, in this case with the NMFS Alaska Regional Office, whenever we propose to authorize take for endangered or threatened species.

NMFS is proposing to authorize take of western DPS Steller sea lions and potentially Mexico DPS humpback whales, which are listed under the ESA. We have requested initiation of Section 7 consultation for the issuance of this IHA. NMFS will conclude the ESA consultation prior to reaching a determination regarding the proposed issuance of the authorization.

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA to the City of Juneau for conducting harbor improvement activities in Statter Harbor, Alaska, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. This section contains a draft of the IHA itself. The wording contained in this section is proposed for inclusion in the IHA (if issued).

1. This Incidental Harassment Authorization (IHA) is valid from January 1, 2019 to December 31, 2019.

2. This IHA is valid only for in-water construction activities associated with improvements in Statter Harbor, Alaska.

3. General Conditions

(a) A copy of this IHA must be in the possession of the City of Juneau, its designees, work crew, and marine mammal monitoring personnel operating under the authority of this IHA.

(b) The species authorized for taking are humpback whale (*Megaptera novaeangliae*), harbor porpoise (*Phocoena phocoena*), Steller sea lion (*Eumetopias jubatus*), and harbor seal (*Phoca vitulina*).

(c) The taking, by Level A and Level B harassment, is limited to the species listed in condition 3(b). See Table 9 for numbers of take authorized.

(d) For those marine mammals for which take has not been requested, in-water activities must shut down immediately when the animals are sighted.

(e) The taking by serious injury or death of any species of marine mammal is prohibited and may result in the modification, suspension, or revocation of this IHA.

(f) The City of Juneau must conduct briefings between construction supervisors and crews, marine mammal monitoring team, and the City of Juneau staff prior to the start construction activity, and when new personnel join the work, in order to explain responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures.

(g) Work may only occur during daylight hours.

4. Mitigation Measures

The holder of this Authorization is required to implement the following mitigation measures:

(a) Shutdown Measures.

(i) The City of Juneau must implement shutdown measures if the number of any allotted marine mammal takes reaches the limit under the IHA and if such marine mammals are sighted within the vicinity of the project area and are approaching their respective Level A or Level B monitoring zone.

(ii) If a marine mammal comes within 10 meters of in-water, heavy machinery work, operations must cease and vessels must reduce speed to the minimum level required to maintain steerage and safe working conditions. Construction crew members can enforce this shutdown zone.

(b) The City of Juneau must establish Level A and Level B monitoring zones as shown in Table 10.

(c) The City of Juneau must monitor the zone for 30 minutes prior to blasting to establish that the monitoring zone is clear of marine mammals as long as practicable. Blasting-related activity must be conducted in daylight hours.

5. Monitoring

The holder of this Authorization is required to conduct marine mammal monitoring during construction activities. Monitoring and reporting must be conducted in accordance with the Monitoring Plan.

(a) Pre-Activity Monitoring

(i) Prior to the start of daily in-water construction activity, or whenever a break in construction activity of 30 minutes or longer occurs, the observer(s) must observe the shutdown and monitoring zones for a period of 30 minutes.

(ii) The shutdown zone must be cleared when a marine mammal has not been observed within that zone for that 30-minute period.

(iii) If a marine mammal is observed within the shutdown zone, activities can proceed if the animal is observed leaving the zone or has not been observed for 30 minutes, even if visibility of Level B zone is impaired.

(iv) If the Level B harassment zone has been observed for 30 minutes and species for which take is not authorized are not present within the zone, in-water construction can commence and work can continue even if visibility becomes impaired within the Level B zone.

(v) When a marine mammal permitted for Level B take is present in the Level B harassment zone, pile removal and dredging activities may begin and or

continue and Level B take must be recorded.

(vi) If the entire Level B zone is not visible while work continues, exposures must be recorded and extrapolated based upon the amount of total observed exposures and the percentage of the Level B zone that was not visible.

(b) Monitoring must be conducted by qualified protected species observers (PSOs), with minimum qualifications as described previously in the *Monitoring and Reporting* section.

(i) Two observers must be on site to actively observe the shutdown and monitoring zones during all pile removal and dredging.

(ii) Observers must use their naked eye with the aid of binoculars, and/or a spotting scope during all construction activities.

(iii) Monitoring location(s) must be identified with the following characteristics:

1. Unobstructed view of activity being conducted;

2. Unobstructed view of all water within the Level A zone (if applicable) and as much of the Level B harassment zone as possible.

(c) If environmental conditions restrict the PSOs ability to observe within the marine mammal shutdown zone (*e.g.,* excessive wind or fog), construction activities must cease. Work must not be initiated until the entire shutdown zone is visible.

(d) Marine mammal location must be determined using a rangefinder and a GPS or compass.

(e) Ongoing in-water work may be continued during periods when conditions such as low light, darkness, high sea state, fog, ice, rain, glare, or other conditions prevent effective marine mammal monitoring of the entire Level B harassment zone. PSOs would continue to monitor the visible portion of the Level B harassment zone throughout the duration of construction activities.

(f) Post-activity monitoring must be conducted for 30 minutes beyond the cessation of construction activities at end of day.

6. Reporting

The holder of this Authorization is required to:

(a) Submit a draft report on all monitoring conducted under the IHA within ninety calendar days of the completion of marine mammal monitoring This report must detail the monitoring protocol, summarize the data recorded during monitoring, and estimate the number of marine mammals that may have been harassed, including the total number extrapolated from observed animals across the entirety of relevant monitoring zones A final report must be prepared and submitted within thirty days following resolution of comments on the draft report from NMFS. This report must contain the following:

(i) Date and time a monitored activity begins or ends;

(ii) Construction activities occurring during each observation period;

(iii) Record of implementation of shutdowns, including the distance of animals to the activity and description of specific actions that ensued and resulting behavior of the animal, if any;

(iv) Weather parameters (*e.g.,* percent cover, visibility);

(v) Water conditions (*e.g.,* sea state, tide state);

(vi) Species, numbers, and, if possible, sex and age class of marine mammals;

(vii) Description of any observable marine mammal behavior patterns;

(viii) Distance from construction activities to marine mammals and distance from the marine mammals to the observation point;

(ix) Locations of all marine mammal observations; and

(x) Other human activity in the area;

(b) Reporting injured or dead marine mammals:

(i) In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by this IHA, such as a serious injury or mortality, The City of Juneau must immediately cease the specified activities and report the incident to the Office of Protected Resources, NMFS, and the Alaska Regional Stranding Coordinator, NMFS. The report must include the following information:

1. Time and date of the incident;

2. Description of the incident;

3. Environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, and visibility);

4. Description of all marine mammal observations and active sound source use in the 24 hours preceding the incident;

5. Species identification or description of the animal(s) involved;

6. Fate of the animal(s); and

7. Photographs or video footage of the animal(s). Activities must not resume until NMFS is able to review the circumstances of the prohibited take. NMFS must work with the City of Juneau to determine what measures are necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. The City of Juneau may not resume their activities until notified by NMFS.

(ii) In the event that the City of Juneau discovers an injured or dead marine mammal, and the lead observer determines that the cause of the injury or death is unknown and the death is relatively recent (*e.g.,* in less than a moderate state of decomposition), the City of Juneau must immediately report the incident to the Office of Protected Resources, NMFS, and the Alaska Regional Stranding Coordinator, NMFS. The report must include the same information identified in 6(b)(i) of this IHA. Activities may continue while NMFS reviews the circumstances of the incident. NMFS must work with the City of Juneau to determine whether additional mitigation measures or modifications to the activities are appropriate.

(iii) In the event that the City of Juneau discovers an injured or dead marine mammal, and the lead observer determines that the injury or death is not associated with or related to the activities authorized in the IHA (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), the City of Juneau must report the incident to the Office of Protected Resources, NMFS, and the Alaska Regional Stranding Coordinator, NMFS, within 24 hours of the discovery. The City of Juneau must provide photographs, video footage, or other documentation of the stranded animal sighting to NMFS.

7. Authorization

This Authorization may be modified, suspended or withdrawn if the holder fails to abide by the conditions prescribed herein, or if NMFS determines the authorized taking is having more than a negligible impact on the species or stock of affected marine mammals.

TABLE 9—AUTHORIZED TAKE NUMBERS, BY SPECIES/STOCKS

Species	DPS/Stock	Level A takes	Level B takes
Steller sea lion	Eastern DPS	20	3,930
	Western DPS	0	80

TABLE 9—AUTHORIZED TAKE NUMBERS, BY SPECIES/STOCKS—Continued

Species	DPS/Stock	Level A takes	Level B takes
Harbor seal	Lynn Canal	22	1,794
Harbor porpoise	Southeast Alaska	4	68
Humpback whale	Hawaii DPS/Central North Pacific Stock	0	24
Total		46	5,897

TABLE 10—MONITORING ZONES IN METERS (M)

Source	Monitoring zones				Shutdown zones
	High frequency cetacean	Low frequency cetacean	Phocid	Otariid	All species
Vibratory Removal—Steel	1,820 m	1,820 m	1,820 m	1,820 m	10 m
Vibratory Removal—Timber	1,360 m	1,360 m	1,360 m	1,360 m	10 m
Dredging	110 m	110 m	110 m	110 m	10 m
Blasting (PTS)	160 m	180 m	80 m	10 m	10 m
Blasting (TTS)	340 m	990 m	410 m	60 m	10 m

Request for Public Comments

We request comment on our analyses, the proposed authorization, and any other aspect of this Notice of Proposed IHA for the proposed harbor improvement activities. We also request comment on the potential for renewal of this proposed IHA as described in the paragraph below. Please include with your comments any supporting data or literature citations to help inform our final decision on the request for MMPA authorization.

On a case-by-case basis, NMFS may issue a second one-year IHA without additional notice when (1) another year of identical or nearly identical activities as described in the Specified Activities section is planned or (2) the activities would not be completed by the time the IHA expires and a second IHA would allow for completion of the activities beyond that described in the Dates and Duration section, provided all of the following conditions are met:

- A request for renewal is received no later than 60 days prior to expiration of the current IHA;
- The request for renewal must include the following:

(1) An explanation that the activities to be conducted beyond the initial dates either are identical to the previously analyzed activities or include changes so minor (*e.g.,* reduction in pile size) that the changes do not affect the previous analyses, take estimates, or mitigation and monitoring requirements; and

(2) A preliminary monitoring report showing the results of the required monitoring to date and an explanation showing that the monitoring results do not indicate impacts of a scale or nature not previously analyzed or authorized; and

- Upon review of the request for renewal, the status of the affected species or stocks, and any other pertinent information, NMFS determines that there are no more than minor changes in the activities, the mitigation and monitoring measures remain the same and appropriate, and the original findings remain valid.

Dated: October 11, 2018.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

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BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Estimating Economic Burden of Vibrio parahaemolyticus in Washington State Aquaculture

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 December 17, 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 *pracomments@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Amy Freitag at 443–258–6066 or *amy.freitag@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The National Ocean Service (NOS) proposed a new collection in order to pursue three of the strategic goals of the NOAA Office of Aquaculture: To advance understanding of the interactions of aquaculture and the environment; to increase the supply of nutritious, safe, high-quality domestic seafood; develop and use socioeconomic and business research to advance domestic aquaculture. NOS proposes to estimate the costs associated with reported Vibrio illnesses, which is a demand expressed in a number of industry settings. Washington State Department of Health expressed desire for this information in order to more accurately plan their budgets.

Management agency staff, restaurant staff, and oyster farm staff will be asked to help develop a model of what kind of expenditures accrue during a response to a reported Vibrio illness and estimate the value of those expenditures. The results of the project will be used to develop a model to

estimate the full suite of costs of seafood-borne illness and will provide an estimate for agency and business budget planners.

II. Method of Collection

The data collection will take place over a three to four month period and will be comprised of a questionnaire or set of interview questions to be completed by the respondent. Respondents will each have the option to respond via email, phone, or in-person, whichever they prefer.

III. Data

OMB Control Number: 0648-xxxx.

Form Number(s): None.

Type of Review: Regular submission (new information collection).

Affected Public: Business or other for-profit; state, local, or tribal government.

Estimated Number of Respondents: 50.

Estimated Time per Response: 1 hour.

Estimated Total Annual Burden Hours: 50 hours.

Estimated Total Annual Cost to Public: $0 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: October 12, 2018.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2018–22574 Filed 10–16–18; 8:45 am]

BILLING CODE 3510–JE–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: Environmental Compliance Questionnaire for National Oceanic and Atmospheric Administration Notice of Federal Funding Opportunity Applicants.

OMB Control Number: 0648–0538.

Form Number(s): None.

Type of Request: Regular (O and extension of a currently approved information collection).

Number of Respondents: 736.

Average Hours per Response: 4 hours.

Burden Hours: 1,030.

Needs and Uses: This request is for a revision and extension of a currently approved information collection through the *Environmental Compliance Questionnaire for National Oceanic and Atmospheric Administration Federal Financial Assistance Applicants* (Questionnaire). This Questionnaire is used by the National Oceanic and Atmospheric Administration (NOAA) to collect information about proposed activities for the purpose of complying with the National Environmental Policy Act (''NEPA,'' 42 U.S.C. 4321–4370) and other environmental compliance requirements associated with proposed activities. NEPA requires federal agencies to complete an environmental analysis for all major federal actions, including funding non-federal activities through federal financial assistance awards where federal participation in the funded activity is expected to be significant. The Questionnaire is used in conjunction with NOAA Notices of Funding Opportunity (NOFO).

The NOFO will indicate the specific questions to which an applicant must respond in one of three ways: (1) The applicable questions are inserted directly into the NOFO with reference to the OMB Control Number (0648–0538) for this form; (2) the NOFO will specify which questions (*e.g.,* 1, 2) an applicant must answer, with the entire OMB-approved Questionnaire attached to the NOFO; or (3) applicants to be recommended for funding will be required to answer relevant questions from the Questionnaire. The federal program officer will determine which questions are relevant to each specific applicant. Answers must be provided before the application can be submitted for final funding approval.

This Questionnaire has been revised to (1) remove repetitive questions; (2) revise specific questions to use plain language; and (3) add questions that would be helpful to a wider range of NOAA programs.

Affected Public: Business or other for profit organizations; individuals or households; not-for-profit institutions; state, local, or tribal government; and Federal government.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

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.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2018–22573 Filed 10–16–18; 8:45 am]

BILLING CODE 3510–NW–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Solicitation for Members of the NOAA Science Advisory Board

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Office of Oceanic and Atmospheric Research (OAR), Department of Commerce (DOC).

ACTION: Notice of solicitation for members of the NOAA Science Advisory Board.

SUMMARY: NOAA is soliciting nominations for members of the NOAA Science Advisory Board (SAB). The SAB is the only Federal Advisory Committee with the responsibility to advise the Under Secretary of Commerce for Oceans, Atmosphere, and NOAA Administrator on long- and short-range strategies for research, education, and application of science to resource management and environmental assessment and prediction. The SAB consists of approximately fifteen members reflecting the full breadth of NOAA's

areas of responsibility and assists NOAA in maintaining a complete and accurate understanding of scientific issues critical to the agency's missions.

DATES: Nominations should be sent to the web address specified below and must be received by November 16, 2018.

ADDRESSES: Applications should be submitted electronically to *noaa.sab.newmembers@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Dr. Cynthia Decker, Executive Director, Science Advisory Board, NOAA, Rm. 11230, 1315 East-West Highway, Silver Spring, Maryland 20910. (Phone: 301–734–1156, Fax: 301–713–1459, Email: *Cynthia.Decker@noaa.gov*); or visit the NOAA SAB website at *http://www.sab.noaa.gov.*

SUPPLEMENTARY INFORMATION: At this time, individuals are sought with expertise in cloud computing, artificial intelligence and data management; weather modeling and data assimilation; remote/autonomous sensing technology; ocean exploration science and technology; and omics science. Individuals with expertise in other NOAA mission areas are also welcome to apply.

Composition and Points of View: The Board will consist of approximately fifteen members, including a Chair, designated by the Under Secretary in accordance with FACA requirements.

Members will be appointed for three-year terms, renewable once, and serve at the discretion of the Under Secretary. If a member resigns before the end of his or her first term, the vacancy appointment shall be for the remainder of the unexpired term, and shall be renewable twice if the unexpired term is less than one year. Members will be appointed as special government employees (SGEs) and will be subject to the ethical standards applicable to SGEs. Members are reimbursed for actual and reasonable travel and per diem expenses incurred in performing such duties but will not be reimbursed for their time. As a Federal Advisory Committee, the Board's membership is required to be balanced in terms of viewpoints represented and the functions to be performed as well as the interests of geographic regions of the country and the diverse sectors of U.S. society.

The SAB meets in person three times each year, exclusive of teleconferences or subcommittee, task force, and working group meetings. Board members must be willing to serve as liaisons to SAB working groups and/or participate in periodic reviews of the NOAA Cooperative Institutes and overarching reviews of NOAA's research enterprise.

Nominations: Interested persons may nominate themselves or third parties.

Applications: An application is required to be considered for Board membership, regardless of whether a person is nominated by a third party or self-nominated. The application package must include: (1) The nominee's full name, title, institutional affiliation, and contact information; (2) the nominee's area(s) of expertise; (3) a short description of his/her qualifications relative to the kinds of advice being solicited by NOAA in this Notice; and (4) a current resume (maximum length four [4] pages).

Dated: October 11, 2018.

David Holst,

Chief Financial Officer/Administrative Officer, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. 2018–22637 Filed 10–16–18; 8:45 am]

BILLING CODE 3510–KD–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Request for Public Comment on a Commercial Availability Request Under the U.S.-Korea Free Trade Agreement

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Request for public comments concerning a request for modification of the U.S.-Korea Free Trade Agreement (KORUS) rules of origin for certain textile and apparel products.

SUMMARY: The Government of the United States received a request from the Government of Korea, submitted on September 24, 2018, to initiate consultations under the KORUS. The Government of Korea is requesting that the United States and Korea (''the Parties'') consider revising the rules of origin for certain yarns, woven fabrics, and knit apparel to address availability of supply of fibers and yarns in the territories of the Parties. The President of the United States may proclaim a modification to the KORUS rules of origin for textile and apparel products after the United States reaches an agreement with the Government of Korea on a modification under the KORUS to address issues of availability of supply of fibers, yarns, or fabrics in the territories of the Parties. CITA hereby solicits public comments on this request, in particular with regard to whether certain fibers, yarns, and knit fabrics can be supplied by the U.S. domestic industry in commercial quantities in a timely manner.

DATES: Comments must be submitted by November 16, 2018 to the Chairman, Committee for the Implementation of Textile Agreements, Room 30003, United States Department of Commerce, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Maria D'Andrea-Yothers, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–1550.

SUPPLEMENTARY INFORMATION:

Authority: Section 202(o)(3)(C) of the United States-Korea Free Trade Agreement Implementation Act (19 U.S.C. 3805 note) (KORUS Implementation Act); Executive Order 11651 of March 3, 1972, as amended.

Background: Article 4.2.3 of the KORUS provides that, on the request of either Party, the Parties shall consult to consider whether the rules of origin applicable to a particular textile or apparel good should be revised to address issues of availability of supply of fibers, yarns, or fabrics in the territories of the Parties. In the consultations, pursuant to Article 4.2.4 of the KORUS, each Party shall consider all data presented by the other Party that demonstrate substantial production in its territory of a particular fiber, yarn, or fabric. The Parties shall consider that there is substantial production if a Party demonstrates that its domestic producers are capable of supplying commercial quantities of the fiber, yarn, or fabric in a timely manner. The KORUS Implementation Act provides the President with the authority to proclaim as part of the Harmonized Tariff Schedule of the United States, modifications to the KORUS rules of origin set out in Annex 4–A of the KORUS as are necessary to implement an agreement with Korea under Article 4.2.5 of the KORUS, subject to the consultation and layover requirements of Section 104 of the KORUS Implementation Act. *See* Section 202(o)(3)(C)(iii) of the KORUS Implementation Act.

Executive Order 11651 established CITA to supervise the implementation of textile trade agreements and authorizes the Chairman of CITA to take actions or recommend that appropriate officials or agencies of the United States take actions necessary to implement textile trade agreements. 37 FR 4699 (March 4, 1972), reprinted as amended in 7 U.S.C. Sec. 1854 note. The Government of the United States received a request from the Government of Korea, submitted on September 24, 2018, requesting that the United States

consider whether the KORUS rule of origin for certain yarns, woven fabrics, and knit apparel should be modified to allow the use of certain fibers and yarns that are not originating under the KORUS. The fibers and yarns subject to this request, and their specific end-uses, are described below.

Item No.	Input product description	Input product classification, Harmonized Tariff Schedule of the U.S. (HTSUS)	End-use product description	End-use product classification (HTSUS)
1	Certain viscose rayon staple fibers	5504.10 or 5507.00	Cotton yarn (other than sewing thread), containing less than 85% by weight of cotton, not put up for retail sale.	5206
2	Certain textured and non-textured cuprammonium rayon filament yarns.	5403.39	Woven fabrics of artificial filament yarn, including woven fabrics obtained from materials of HTSUS heading 5405.	5408
3	Certain cashmere yarn	5108	Sweaters, pullovers, sweatshirts, waistcoats (vests) and similar articles, knitted or crocheted.	6110
			Other made-up clothing accessories, knitted or crocheted.	6117
			Knitted or crocheted parts of garments or of clothing accessories.	6117

CITA is soliciting public comments regarding this request, particularly with respect to whether the fibers and yarns described above can be supplied by the U.S. domestic industry in commercial quantities in a timely manner. Comments must be received no later than November 16, 2018.

Interested persons are invited to submit such comments or information electronically to *OTEXA_Korea_FTA@trade.gov,* and/or in hard copy to: Chairman, Committee for the Implementation of Textile Agreements, Room 30003, U.S. Department of Commerce, 14th and Constitution Avenue NW, Washington, DC 20230.

If comments include business confidential information, commenters must submit a business confidential version in hard copy to the Chairman of CITA, and also provide a public version, either in hard copy or electronically. CITA will protect any information that is marked business confidential from disclosure to the full extent permitted by law. All public versions of the comments will be posted on OTEXA's website for Commercial Availability proceedings under KORUS: *https://otexa.trade.gov/ca/ca_Korea.htm.*

Terry Labat,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 2018–22610 Filed 10–16–18; 8:45 am]

BILLING CODE P

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meetings

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 83, No. 197, Thursday, October 11, 2018, page 51450.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 a.m.–12:00 p.m., Wednesday, October 17, 2018.

CHANGES IN THE MEETING: Meeting postponed.

CONTACT PERSON FOR MORE INFORMATION: Rockelle Hammond, Office of the Secretariat, Office of the General Counsel, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, (301) 504–6833.

Dated: October 15, 2018.

Alberta E. Mills,

Secretary.

[FR Doc. 2018–22731 Filed 10–15–18; 4:15 pm]

BILLING CODE 6355–01–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; Application Package for Employers of National Service Enrollment Form and Employers of National Service Annual Survey

AGENCY: Corporation for National and Community Service (CNCS).

ACTION: Notice of information collection; request for comment.

SUMMARY: The Corporation for National and Community Service (CNCS) has submitted a public information collection request (ICR) entitled Employers of National Service Enrollment Form and Annual Survey for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted to the individual and office listed in the **ADDRESSES** section by December 17, 2018.

ADDRESSES: You may submit comments, identified by the title of the information collection activity, by any of the following methods:

(1) *By mail sent to:* Corporation for National and Community Service, Office of the CPO; Attention: Sharron A. Walker-Tendai, 250 E Street SW, Washington, DC, 20525.

(2) By hand delivery or by courier to the CNCS mailroom at the mail address given in paragraph (1) above, between 9:00 a.m. and 4:00 p.m. Eastern Time, Monday through Friday, except federal holidays.

(3) Electronically through *www.regulations.gov.*

Comments submitted in response to this notice may be made available to the public through *regulations.gov.* For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. If you send an email comment, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. Please note that responses to this public comment request containing any routine notice about the confidentiality of the communication will be treated as public comment that may be made available to the public notwithstanding the inclusion of the routine notice.

FOR FURTHER INFORMATION CONTACT: Sharron A. Walker-Tendai, 202–606–6930, or by email at *Stendai@cns.gov.*

SUPPLEMENTARY INFORMATION:

Title of Collection: Employers of National Service Enrollment Form and Employers of National Service Annual Survey.

OMB Control Number: 3045–0175.

Type of Review: Renewal and addition of second instrument.

Respondents/Affected Public: Any organization that seeks to be or is an Employer of National Service program, including businesses, nonprofits, institutions of higher education, school districts, state/local governments, and federal agencies.

Total Estimated Number of Annual Responses: 1,180.

Total Estimated Number of Annual Burden Hours: 490.

Abstract: This is a request to renew the Employers of National Service Enrollment Form and add an additional related instrument, the Employers of National Service Annual Survey. Organizations from all sectors either seeking to become or already established Employers of National Service will be filling out these forms, including businesses, nonprofits, institutions of higher education, school districts, state/local governments, and federal agencies. The key purpose of the enrollment form is to document what the organization is committing to doing as an Employer of National Service and provide contact information to CNCS. The information gathered on the enrollment form will also allow CNCS to display the organization's information accurately online as a resource for job seekers. It will also enable CNCS to speak to the diversity within the program's membership, both for internal planning and external audience use. The purpose of the survey form is to track what actions an employer has taken in the past year, gather stories of success or impact, collect quantitative hiring data relating to AmeriCorps and Peace Corps alumni, and provide organizations with an opportunity to update their contact and location data. The information will be collected electronically via our website. CNCS also seeks to continue using the currently approved information collection until the revised information collection is approved by OMB. The currently approved information collection is due to expire on March 31, 2019.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. 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. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information. All written comments will be available for public inspection on *regulations.gov.*

Dated: October 10, 2018.

Sharron Walker-Tendai,

Program Support Specialist.

[FR Doc. 2018–22636 Filed 10–16–18; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2018–OS–0076]

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary, DoD.

ACTION: Notice of a new system of records.

SUMMARY: The Office of the Secretary of Defense (OSD) proposes to establish a new system of records, ''Personnel Vetting Records System,'' DUSDI 02-DoD. The system supports the Department of Defense (DoD) in conducting end-to-end personnel security, fitness, suitability, and credentialing processes, including application and questionnaire submission, investigations, adjudications, and continuous vetting activities. The Personnel Vetting Records System integrates DoD information technology capabilities developed to support the execution of federal background investigation activities, including: Investigations and determinations of eligibility for access to classified national security information, eligibility to occupy a sensitive position, and for access to special access programs; suitability for federal employment; fitness of contractor personnel to perform work for or on behalf of the U.S. Government, and Homeland Security Presidential Directive (HSPD)-12 determinations for Personal Identity Verification (PIV) credentials to gain logical or physical access to government facilities and systems. The Personnel Vetting Records System also supports: submissions of adverse personnel information; verification of investigation and adjudicative history and status; support of continuous evaluation (CE); and insider threat detection, prevention, and mitigation activities. The system may also be used as a management tool for statistical analyses; tracking, reporting, and evaluating program effectiveness; and conducting research related to personnel vetting.

DATES: This SORN, with the exception of routine uses, is effective on October 17, 2018. Routine Uses will be effective November 16, 2018. Comments will be accepted on or before November 16, 2018.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

* *Federal Rulemaking Portal: http://www.regulations.gov.*

Follow the instructions for submitting comments.

* *Mail:* Department of Defense, Office of the Chief Management Officer, Directorate of Oversight and Compliance, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Nehmer, Technical Director, Defense Security Enterprise/Federal Vetting Enterprise Program Executive Office, Building 600, 10th Street, Ft. George G. Meade, MD 20755; by email at *Mark.A.Nehmer.civ@mail.mil* or by phone at (301) 833–3488.

SUPPLEMENTARY INFORMATION: The OSD is proposing to establish a system of records that will be integral to the Federal Government's need to conduct background investigations and make vetting decisions for persons who are proposed for new or continuing access to classified national security information, eligibility to positions with sensitive duties, enlistment or appointment into a military service, federal employment, assignment to contractual duties in support of federal requirements, or physical or logical access to U.S. Government systems or facilities.

As background, in January 2016 the Federal Government announced a series of changes to modernize and strengthen how the Federal Government performs and safeguards background investigations for federal employees, military personnel, and contractor personnel. The changes resulted from a review conducted by the interagency Performance Accountability Council (PAC) to re-examine reforms to the federal background investigations process, assess additional enhancements to further secure information networks and systems, and determine improvements that could be made to the way the Federal Government conducts background investigations for suitability, security, and credentialing (SSC).

One of the actions resulting from the PAC review was a direction to leverage expertise at the DoD for processing background investigations and protecting against threats. DoD was therefore assigned the responsibility to design, build, test, operate, and secure the National Background Investigation System (NBIS), a federal government-wide information technology system for conducting federal SSC investigations and adjudications. Specific direction for the Secretary of Defense to design, develop, deploy, operate, secure, defend, and continuously update and modernize, as necessary, vetting information technology systems is stated in subsection 2.6(b) of Executive Order 13467, as amended by Executive Order 13764, issued on January 23, 2017. Requirements for NBIS elements and enhancements were also passed into law by the National Defense Authorization Acts for fiscal years 2017 and 2018 (Pub. L. 114–328, paragraph 951(f)(1), and Pub. L. 115–91, paragraph 925(f)(1), respectively).

This Privacy Act system of records consists of background investigation information collected, created, and compiled in connection with authorized personnel security background investigations, adjudications, and continuous vetting activities conducted by the DoD.

The OSD notices for systems of records subject to the Privacy Act of 1974, as amended, are published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT** or at the Defense Privacy, Civil Liberties, and Transparency Division website at *https://defense.gov/privacy.*

The proposed systems reports, as required by of the Privacy Act, as amended, were submitted on September 5, 2018, to the House Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to Section 6 to OMB Circular No. A–108, ''Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act,'' revised December 23, 2016 (December 23, 2016, 81 FR 94424).

Dated: October 11, 2018.

Shelly E. Finke,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

SYSTEM NAME AND NUMBER:

Personnel Vetting Records System, DUSDI 02–DoD.

SECURITY CLASSIFICATION:

Unclassified and Classified. This system of records consists of linked information systems and records that support DoD's personnel security, suitability, fitness, and credentialing processes. Some of these systems may contain classified information.

SYSTEM LOCATION:

Defense Information Systems Agency (DISA), DISA Defense Enterprise Computing Center (DECC), 3990 E Broad St, Columbus, OH 43213–1152.

SYSTEM MANAGER(S):

Mr. Mark Nehmer, Technical Director, Defense Security Enterprise/Federal Vetting Enterprise Program Executive Office, Building 600, 10th Street, Ft. George G. Meade, MD 20755; by email at *Mark.A.Nehmer.civ@mail.mil* or by phone at (301) 833–3488.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 137, Under Secretary of Defense for Intelligence; 10 U.S.C. 504, Persons Not Qualified; 10 U.S.C. 505, Regular components: Qualifications, term, grade; Atomic Energy Act of 1954, 60 Stat. 755; Public Law 108–458, The Intelligence Reform and Terrorism Prevention Act of 2004 (50 U.S.C. 401 note); Public Law 114–92, Section 1086, National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2016, Reform and Improvement of Personnel Security, Insider Threat Detection and Prevention, and Physical Security (10 U.S.C. 1564 note); Public Law 114–328, Section 951 (NDAA for FY2017), Enhanced Security Programs for Department Defense Personnel and Innovation Initiatives (10 U.S.C. 1564 note); Public Law 115–91, Section 925, (NDAA for FY2018) Background and Security Investigations for Department of Defense Personnel (10 U.S.C. 1564 note); 5 U.S.C. 9101, Access to Criminal History Records for National Security and Other Purposes; Executive Order (E.O.) 13549, as amended, Classified National Security Information Program for State, Local, Tribal, and Private Sector Entities; E.O. 12333, as amended, United States Intelligence Activities; E.O. 12829, as amended, National Industrial Security Program; E.O. 10865, as amended, Safeguarding Classified Information Within Industry; E.O. 13467, as amended, Reforming Processes Related to Suitability for Government Employment, Fitness for Contractor Employees, and Eligibility for Access to Classified National Security Information; E.O. 12968, as amended, Access to Classified Information; E.O. 13470, Further Amendments to Executive Order 12333; E.O. 13488, as amended, Granting Reciprocity on Excepted Service and Federal Contractor Employee Fitness and Reinvestigating Individuals in Positions of Public Trust; E.O. 13526, Classified National Security Information; E.O. 13741, Amending Executive Order 13467, To Establish the Roles and Responsibilities of the National Background Investigations Bureau and Related Matters; E.O. 13764, Amending the Civil Service Rules; DoD Manual 5200.02, Procedures for the DoD Personnel Security Program (PSP); DoD Instruction (DoDI) 1400.25, Volume 731, DoD Civilian Personnel Management System: Suitability and Fitness Adjudication for Civilian Employees; DoDI 5200.46, DoD Investigative and Adjudicative Guidance for Issuing the Common Access Card (CAC); Homeland Security Presidential Directive (HSPD) 12: Policy for a Common Identification Standard for Federal Employees and Contractors; Federal Information Processing Standard (FIPS) 201–2, Personal Identity Verification (PIV) of Federal Employees and Contractors; and E.O. 9397 (SSN), as amended.

PURPOSE(S) OF THE SYSTEM:

This system of records allows DoD to conduct end-to-end personnel security, suitability, fitness, and credentialing processes, including application and questionnaire submission,

investigations, adjudications, and continuous vetting (including continuous evaluation) activities.

DoD developed the information technology capabilities that contribute to the Personnel Vetting Records System to support federal background investigation processes pursuant to Executive Order 13467, as amended, and Section 925 of the National Defense Authorization Act (NDAA) for FY2018. The Personnel Vetting Records System integrates information technology capabilities to conduct background investigations activities including: investigations and determinations of eligibility for access to classified national security information, and for access to special access programs; suitability for federal employment; fitness of contractor personnel to perform work for or on behalf of the U.S. Government; and Homeland Security Presidential Directive (HSPD)–12 determinations for Personal Identity Verification (PIV) credentials to gain logical or physical access to government facilities and systems. The Personnel Vetting Records System also supports: submissions of adverse personnel information; verification of investigation and adjudicative history and status; continuous evaluation; and insider threat detection, prevention, and mitigation activities.

Records in the information systems covered by this system notice may also be used as a management tool for statistical analyses; tracking, reporting, and evaluating program effectiveness; and conducting research related to personnel vetting. This system notice does not cover personnel vetting records (including investigation and adjudication records) collected or retained separately by those DoD Components with specific personnel vetting authorities and that conduct their own investigations and vetting, or by non-DoD agencies.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Personnel for whom DoD conducts or adjudicates background investigations for security, suitability, fitness, and credentialing. This includes Armed Forces personnel; DoD and U.S. Coast Guard civilian personnel, DoD contractor personnel and consultants, and applicants for those positions; civilian employees, contractor personnel and consultants, and applicants for those positions, working for or on behalf of other federal agencies and offices, for whom DoD conducts background investigations; other government personnel who have authorized access to the system for reciprocity purposes; ''affiliated'' personnel (*e.g.,* Non-Appropriated Fund employees, Red Cross volunteers and staff, USO personnel, and congressional staff members); and other individuals (including contractor personnel of other government entities and foreign nationals) requiring a DoD determination for fitness, HSPD–12 access, access to classified national security information, Sensitive Compartmented Information, and/or assignment to a position with sensitive duties; and officials or employees of State, local, tribal and private sector entities sponsored for access to classified information by a federal agency.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name (current, former and alternate names); Social Security Number (SSN); DoD Identification Number (DoD ID Number); date of birth; place of birth; height; weight; hair and eye color; gender; sex; mother's maiden name; residential history, phone numbers, and email addresses; employment history; military records and discharge information; selective service registration record; educational data, including conduct records and degrees earned; names of relatives, associates and references with their contact information; country(ies) of citizenship; travel, immigration, and passport information; mental health history; records related to drug and/or alcohol use; financial record information; information from the Internal Revenue Service pertaining to income tax returns; bureau of vital statistics records (*e.g.,* birth certificate, death certificate, marriage application and license); credit reports; prior security clearance and investigative information; type of DoD affiliation; employing activity; current employment status; position sensitivity; personnel security investigative basis; status of current adjudicative action; security clearance eligibility status and access status; self-reported information; eligibility recommendations or decisions made by an appellate authority; inadvertent disclosure briefing and agreement; non-disclosure execution dates; indoctrination date(s); level(s) of access granted; briefing/debriefing date(s) and reasons for briefing/debriefing; and other biographical information as required during the course of a background investigation.

Records documenting the outcomes of investigations and adjudications conducted by other Federal investigative organizations (*e.g.,* U.S. Office of Personnel Management (OPM), Federal Bureau of Investigation (FBI), National Aeronautics and Space Administration (NASA), etc.) and locator references to such investigations. Entries documenting fitness determinations, HSPD–12 access, continuous vetting adverse information flags, or counter insider threat reports of the subject.

Name, date and place of birth, social security number, country of citizenship, criminal history and prior security clearance and investigative information for spouse or cohabitant(s); the name and marriage information for current and/or former spouse(s); the country(ies) of citizenship, name, date and place of birth, contact information (*e.g.,* phone numbers, email addresses), and address for relatives.

Reports from pre-employment screening, such as counterintelligence screening or military accessions vetting; results of subject and reference interviews conducted during the course of background investigations, continuous evaluation, counter insider threat, counterintelligence screening, security incident resolution, or program access requests.

Information detailing agency investigation requests including type of investigation requested, tracking codes, and requesting officials' contact information.

Polygraph reports, polygraph charts, polygraph tapes and recordings in other forms, and notes from polygraph interviews or activities related to polygraph interviews.

Biometric information including but not limited to images and fingerprints; criminal and civil fingerprint history information.

Foreign contact, affections, associates (*e.g.,* family members, friends or social contacts), travel, and activities information, including names of individuals known, dates, country(ies) of citizenship, country(ies) of residence, type and nature or contact, financial interests, assets, benefits from foreign governments, countries and dates of arrival and departure for U.S. border crossings; association records; information on loyalty to the United States.

Criminal history information, including information contained in local, state, military, Federal, and foreign criminal justice agency records and local, state, military, and Federal civil and criminal court records. Information about affiliation with known criminal and/or terrorist organizations.

Records concerning civil or administrative proceedings, (for example, bankruptcy records, civil lawsuits, Merit System Protection

Board), including information contained in local, state, military, Federal, and foreign courts and agency records.

Information about and evidence of unauthorized use or misuse of information technology systems.

Information aggregated in counter-insider threat inquiries or investigations, including payroll information, travel vouchers, benefits information, equal employment opportunity complaints, performance evaluations, disciplinary files, training records, substance abuse and mental health records of individuals undergoing law enforcement action or presenting an identifiable imminent threat, counseling statements, outside work and activities requests, and personal contact records; particularly sensitive or protected information, including information held by special access programs, law enforcement, inspector general, or other investigative sources or programs. Access to such information may require additional approval by the senior official who is responsible for managing and overseeing the program; information related to reports regarding harassment or discrimination.

Information collected through user activity monitoring, which is the technical capability to observe and record the actions and activities of all users, at any time, on a computer network controlled by a government agency in order to deter, detect, and/or mitigate insider threats as well as to support authorized investigations. Such information may include key strokes, screen captures, and content transmitted via email, chat, or data import or export.

Agency or Component summaries of reports, and full reports, about potential insider threats from records of usage of government telephone systems, including the telephone number initiating the call, the telephone number receiving the call, and the date and time of the call.

U.S. and foreign finance and real estate information that consists of names of financial institutions, number of accounts held, monthly and year-end account balances for bank and investment accounts, address, year of purchase and price, capital investment costs, lease or rental information, year of lease or rental, monthly payments, deeds, lender/loan information and foreclosure history; information on owned and leased vehicles, boats, airplanes and other U.S. and foreign assets that include type, make, model, year, plate or identification number, year leased, monthly rental payment; year of purchase and price, and fair market value; information pertaining to large or suspicious currency transactions; U.S. and foreign mortgages, loans, and liabilities information that consist of type of loan, names and addresses of creditors, original balance, monthly and year-end balance, monthly payments, and payment history.

Publicly available electronic information about or generated by a covered individual (*e.g.,* public records, civil court records, social media content, news articles, and web blog information).

Results of record checks and data analyses for purposes of improving all types of investigations, reinvestigations, or continuous evaluation with respect to efficiency or cost-effectiveness.

RECORD SOURCE CATEGORIES:

Information contained in this system is obtained from the individual (*e.g.* SF–85, Questionnaire for Non-Sensitive Positions; SF–85P, Questionnaire for Public Trust Positions; SF–86, Questionnaire for the National Security Positions; or self-reported information provided in other forms, such as interviews); DoD personnel and other record systems (*e.g.* Defense Enrollment Eligibility Reporting System; Defense Civilian Personnel Data System; Electronic Military Personnel Record System, Department of Defense (DoD) Insider Threat Management and Analysis Center (DITMAC) and DoD Component Insider Threat Records System, etc.); continuous evaluation records; DoD and Federal investigative and adjudicative facilities/organizations; other Federal agency records and/or systems of records (as authorized by their routine use clauses in system of records notices) that provide security-relevant information; and security managers, security officers, or other officials requesting or sponsoring an individual for security eligibility, suitability, fitness or credentialing determination, or determinations concerning access to facilities. Additional information may be obtained from Federal, State, local, or tribal government entities, including information from criminal or civil investigations, courts, law enforcement agencies, agencies authorized to collect information concerning citizenship, probation officials, prison officials, information technology officials, and security representatives. Information also may be obtained from other publicly available information sources, commercial data providers (*e.g.,* credit reporting companies and online news sources), past and present employers, personal references and associates, relatives, neighbors, education institutions, subject's personal financial records, military service records, travel records, medical records, and unsolicited sources.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, the records contained herein, may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

a. To Federal, State, and local government agencies, if necessary, to obtain information from them which will assist DoD in conducting studies and analyses in support of evaluating and improving the effectiveness of personnel security, suitability, and credentialing programs and methodologies.

b. To the Federal Bureau of Investigation and U.S. Office of Personnel Management personnel to help ensure the accuracy and completeness of FBI, OPM, and DoD records.

c. To the Office of Personnel Management, the Office of the Director of National Intelligence, and other federal government agencies responsible for conducting background investigations, continuous evaluation, and continuous vetting in order to provide them with information relevant to their inquiries and investigations.

d. To designated officers and employees of Federal, State, local, territorial, tribal, international, or foreign agencies, or other public authorities, or to other offices or establishments in the executive, legislative, or judicial branches of the Federal Government, in connection with the hiring or retention of an employee, the conduct of a suitability, credentialing, or security investigation, the classifying of jobs, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter and the Department deems appropriate.

e. To designated officers and employees of agencies, offices, and other establishments in the executive, legislative, and judicial branches of the Federal Government or the Government of the District of Columbia having a need to investigate, evaluate, or make a determination regarding loyalty to the United States; qualification, suitability, or fitness for Government employment or military service; eligibility for logical

or physical access to federally-controlled facilities or information systems; eligibility for access to classified information or to hold a sensitive position; qualification or fitness to perform work for or on behalf of the Government under contract, grant, or other agreement; or access to restricted areas.

f. To an element of the U.S. Intelligence Community as identified in E.O. 12333, as amended, for use in intelligence activities for the purpose of protecting the United States national security interests.

g. To an agency, office, or other establishment in the executive, legislative, or judicial branches of the Federal Government in response to its request, in connection with its current employee's, contractor employee's, or military member's retention; loyalty; qualifications, suitability, or fitness for employment; eligibility for logical or physical access to federally-controlled facilities or information systems; eligibility for access to classified information or to hold a sensitive position; qualifications or fitness to perform work for or on behalf of the Government under contract, grant, or other agreement; or access to restricted areas.

h. To contractors, grantees, or volunteers performing or working on a contract, service, grant, cooperative agreement, or assignment for the Federal Government, when necessary to accomplish an agency function related to this system of records. Such recipients shall be required to comply with the Privacy Act of 1974, as amended.

i. To the appropriate Federal, State, local, tribal, foreign, or other public authority in the event of a natural or manmade disaster. The record will be used to provide leads to assist in locating missing subjects or assist in determining the health and safety of the subject. The record will also be used to assist in identifying victims and locating any surviving next of kin.

j. For agencies that use adjudicative support services of another agency, at the request of the original agency, the information may be furnished to the agency providing the adjudicative support.

k. To a federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

l. To any source from which information is requested in the course of an investigation, to the extent necessary to identify the individual under investigation, inform the source of the nature and purpose of the investigation, and to identify the type of information requested.

m. To contractors whose employees require fitness determinations, or eligibility for access to classified national security information, for the purpose of ensuring that the employer is appropriately informed about the status of the employee's application for a fitness or eligibility determination.

n. To provide information to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. However, the investigative file, or parts thereof, will only be released to a congressional office if DoD receives a notarized authorization or signed statement under 28 U.S.C. 1746 from the subject of the investigation.

o. To the Director of National Intelligence, as Security Executive Agent, the Director of the Office of Personnel Management, as Suitability Executive Agent or Credentialing Executive Agent, or their assignee, to perform any functions authorized by law or executive order in support of personnel security programs, suitability, and/or credentialing. Examples include the Intelligence Reform and Terrorism Prevention Act and E.O. 13741—Amending Executive Order 13467 To Establish the Roles and Responsibilities of the National Background Investigations Bureau and Related Matters.

p. To the White House to obtain approval of the President of the United States regarding certain military personnel officer actions as provided for in DoD Instruction 1320.04, Military Officer Actions Requiring Approval of the President, Secretary of Defense or the Under Secretary of Defense for Personnel and Readiness Approval, or Confirmation by the Senate.

q. To the U.S. Citizenship and Immigration Services for use in alien admission and naturalization inquiries.

r. For the Merit Systems Protection Board —To disclose information to officials of the Merit Systems Protection Board or the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of applicable agency rules and regulations, investigations of alleged or possible prohibited personnel practices, and such other functions, *e.g.,* as promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

s. To disclose information to an agency Equal Employment Opportunity (EEO) office or to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discriminatory practices in the Federal sector, or in the processing of a Federal sector EEO complaint.

t. To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.

u. To another Federal agency's Office of Inspector General when DoD becomes aware of an indication of misconduct or fraud during the applicant's submission of the standard forms.

v. To another Federal agency's Office of Inspector General in connection with its inspection or audit activity of the investigative or adjudicative processes and procedures of its agency as authorized by the Inspector General Act of 1978, as amended, exclusive of requests for civil or criminal law enforcement activities.

w. To a Federal agency or state unemployment compensation office upon its request in order to adjudicate a claim for unemployment compensation benefits when the claim for benefits is made as the result of a qualifications, suitability, fitness, security, identity credential, or access determination.

x. To appropriately cleared individuals in Federal agencies, to determine whether information obtained in the course of processing the background investigation is or should be classified.

y. To the Office of the Director of National Intelligence for inclusion in its Scattered Castles system in order to facilitate reciprocity of background investigations and security clearances within the intelligence community or assist agencies in obtaining information required by the Federal Investigative Standards.

z. To the Office of Personnel Management (OPM) for the purpose of addressing civilian pay and leave, benefits, retirement deduction, and any other information necessary for the OPM to carry out its legally authorized government-wide personnel management functions and studies.

aa. A record from this system may be disclosed as a routine use outside the DoD or the U.S. Government for the purpose of counterintelligence,

counterterrorism, and homeland defense activities authorized by U.S. Law or Executive Order or for the purpose of enforcing laws which protect the national security of the United States; this includes disclosure to Executive Branch Agency insider threat, counterintelligence, and counterterrorism officials to fulfill their responsibilities under applicable Federal law and policy, including but not limited to E.O. 12333, 13587 and the National Insider Threat Policy and Minimum Standards.

bb. To the appropriate Federal, State, local, territorial, tribal, foreign, or international law enforcement authority or other appropriate entity where a record, either alone or in conjunction with other information, indicates a violation or potential violation of law, whether criminal, civil, or regulatory in nature, and whether arising by general statute or by regulation, rule, or order issued pursuant thereto. The relevant records in the system of records may be referred, as a routine use, to the agency concerned and charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

cc. To any component of the Department of Justice for the purpose of representing DoD, or its components, officers, employees, or members in pending or potential litigation to which the record is pertinent.

dd. In an appropriate proceeding before a court, grand jury, or administrative or adjudicative body or official (including to another Federal agency or party in litigation in such a proceeding, as well as to the administrative or adjudicative body or official), when the DoD or other Agency representing the DoD determines that the records are relevant and necessary to the proceeding; or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.

ee. To the National Archives and Records Administration for the purpose of records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

ff. To appropriate agencies, entities, and persons when (1) the DoD suspects or has confirmed that there has been a breach of the system of records; (2) the DoD has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the DoD (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the DoD's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

gg. To another Federal agency or Federal entity, when the DoD determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are maintained in paper and electronic storage media, in accordance with the safeguards below.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Information is retrieved by SSN, case number, DoD ID number, name, date of birth, state and/or country of birth, or some combination thereof.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Draft Records Retention/Disposition Schedule is currently in development, pending submission to and approval from the Archivist of the United States, National Archives and Records Administration (NARA). Unscheduled NBIS records will be treated as permanent until receipt of retention/disposition instruction approval from the Archivist of the United States, NARA.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

The system is protected against compromise of Personally Identifiable Information (PII) and cyberattack by the full suite of defenses and sensors of the DoD cybersecurity perimeter. Electronic data is encrypted where it is stored, and network traffic is encrypted based on the type of user traffic and risk to PII data. User access to data is protected using Identity and Access Management with multifactor authentication that will only allow an authenticated and authorized user to access or manipulate the specific records based on user role and permissions. The system audits access to information. Paper records are contained and stored in safes and locked filing cabinets that are located in a secure area with access only by authorized personnel. Physical entry is restricted by the use of locks, guards, and administrative procedures. All individuals granted access to the system must complete Information Assurance and Privacy Act training before initially accessing the system and annually thereafter, and these users must have also been adjudicated as being eligible for system access through the information technology credentialing and/or security clearance eligibility process.

RECORD ACCESS PROCEDURES:

Individuals seeking information about themselves contained in this system should address written inquiries to the Defense Security Service, Office of FOIA and PA, 27130 Telegraph Road, Quantico, VA 22134–2253. Requests for vetting records not covered by this system notice, including vetting records maintained by other DoD Components and other federal agencies, should be addressed to those DoD Components and federal agencies.

Signed, written requests should contain the requester's full name (and any alias and/or alternate names used), SSN, DoD ID Number (if available), and date and place of birth.

In addition, the requester must provide either a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: ''I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).''

If executed within the United States, its territories, possessions, or commonwealths: ''I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).'' Attorneys or other persons acting on behalf of an individual must provide written authorization from that individual for their representative to act on their behalf.

Note: Information generated, authored, or compiled by another Government agency that is relevant to the purpose of the record may be incorporated into the record. In such instances that information will be referred to the originating entity for direct response to the requester, or contact information and record access procedures for the other agency will be provided to the requester.

CONTESTING RECORD PROCEDURES:

The Department of Defense rules for accessing records, contesting contents,

and appealing initial agency determinations are contained in 32 CFR part 310; or may be obtained from the system manager.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to Defense Security Service, Office of FOIA and PA, 27130 Telegraph Road, Quantico, VA 22134–2253. Requests for vetting records not covered by this systems notice, including vetting records maintained by other DoD Components and other federal agencies, should be addressed to those DoD Components and federal agencies.

Signed, written requests should contain the requester's full name, telephone number, street address, email address, and name and number of this system of records notice.

In addition, the requester must provide either a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: ''I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).''

If executed within the United States, its territories, possessions, or commonwealths: ''I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).''

EXEMPTIONS CLAIMED FOR THE SYSTEM:

The DoD is exempting records maintained in DUSDI 02-DoD ''Personnel Vetting Records System,'' from subsections (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), and (e)(1) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(1), (2), (3), (5), (6), and (7). In addition, in the course of carrying out personnel vetting, including records checks for continuous vetting, exempt records from other systems of records may in turn become part of the records maintained in this system. To the extent that copies of exempt records from those other systems of records are maintained in this system, the Department also claims the same exemptions for the records from those other systems that are maintained in this system, as claimed for the original primary system of which they are a part.

An exemption rule for this system has been promulgated in accordance with requirements of 5 U.S.C. 553(b) (1), (2), and (3), (c) and (e) and published in 32 CFR part 310. For additional information contact the system manager.

HISTORY:

None.

[FR Doc. 2018–22508 Filed 10–16–18; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2018–ICCD–0104]

Agency Information Collection Activities; Comment Request; Recent Graduates Employment and Earnings Survey (RGEES) Standards and Survey 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 December 17, 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–0104. 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: Recent Graduates Employment and Earnings Survey (RGEES) Standards and Survey Form.

OMB Control Number: 1845–0138.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 22,123.

Total Estimated Number of Annual Burden Hours: 7,374.

Abstract: The National Center for Education Statistics (NCES) of the U.S. Department of Education (Department) is required by regulation to develop an earnings survey to support gainful employment (GE) program evaluations. The regulations specify that the Secretary of Education will publish in the **Federal Register** the survey and the standards required for its administration. NCES has developed the Recent Graduates Employment and Earnings Survey (RGEES) Standards and Survey Form. The RGEES can be used in a debt-to-earnings (D/E) ratio appeal under the GE regulations as an alternative to the Social Security administration earnings data.

Institutions that choose to submit alternate earnings appeal information will survey all Title IV funded students who graduated from GE programs during the same period that the Department used to calculate the D/E ratios, or a comparable period as defined in 668.406(b)(3) of the regulations. The survey will provide an additional source of earnings data for the Department to consider before determining final D/E ratios for programs subject to the gainful employment regulations. Programs with final D/E ratios that fail to meet the

minimum threshold may face sanctions, including the possible loss of Title IV federal student financial aid program funds.

Dated: October 11, 2018.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2018–22520 Filed 10–16–18; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Application to Pilot; Federal Student Aid's Next Generation Financial Services Environment—Payment Vehicle Account Program Pilot

AGENCY: Federal Student Aid, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education's Federal Student Aid office is issuing a Notice inviting Applications from parties to implement a Pilot of a Payment Vehicle Account Program.

DATES:

Applications Available: October 17, 2018.

Deadline for Transmittal of Applications: November 7, 2018.

In-Person Presentations for Applications selected to Present (45 minutes) and Discussion Session (45 minutes): November 21, 2018 to November 28, 2018.

Intended Award Date: December 5, 2018.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the Application (''Application'') process should email *FSAPaymentVehicle@ed.gov.* If the Department of Education (''Department'') provides an accommodation or auxiliary aid to an individual with a disability in connection with the Application process, the individual's Application remains subject to all other requirements and limitations in this Notice (''Notice'').

FOR FURTHER INFORMATION CONTACT: Please email *FSAPaymentVehicle@ed.gov.* You may also contact Dr. Charles Patterson, Project Advisor at (202) 377–4133, or Emily Malone, Project Advisor at (202) 377–4624.

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

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

Summary of Payment Vehicle Account Program Pilot

Federal Student Aid (FSA), an office of the United States Department of Education, intends to enter into one or more Cooperative Agreements (''Cooperative Agreement'') for a Program Pilot (''Pilot''). This Pilot is intended to guide the establishment and delivery of a student-focused electronic Payment Vehicle Account Program (''Program''). This Payment Vehicle Account (''Payment Vehicle Account'') will have direct connectivity, through integration with FSA's myStudentAid Super Portal Mobile App (''Super Portal Mobile App''), to a robust set of app functionalities that are important to help students pursue, finance, and complete their postsecondary education.

In the first phase of the selection process for this Pilot, FSA is inviting interested parties to submit Applications to enter into Cooperative Agreements to serve as Pilot Implementer(s) (''Pilot Implementer(s)'') in FSA's Payment Vehicle Account Program. FSA will, at its sole discretion, select one or more parties to serve as Pilot Implementer(s) of the Pilot. The Department has determined that a Cooperative Agreement is the appropriate vehicle for this Pilot, because FSA is not acquiring property or services for the direct benefit or use of the Government (''Government''). Rather, FSA is transferring a thing of value (including, and of importance, the authority to use the FSA brand) to the recipient to carry out a public purpose of support or stimulation authorized by law, which is to improve service to students and other participants in the student financial assistance programs.

FSA will select one or more eligible Applicants that meet the Program Pilot Requirements set forth in this Notice to serve as Pilot Implementer(s), based upon the selection criteria and using the process set forth in Sections IV and V of this Notice.

Using one or more Cooperative Agreements, FSA will authorize one or more Pilot Implementer(s) to utilize the FSA brand in connection with piloting a Payment Vehicle Account. The Pilot Implementer(s) will, thus, be supported and required to establish a Payment Vehicle Account, and will agree to abide by customer-friendly terms and conditions as defined and updated at FSA's sole discretion. The Pilot is intended to run through December 2020, but may be extended, expanded, or terminated at the sole discretion of FSA. The term of the Cooperative Agreement will be for the duration of the Pilot, plus 12 months thereafter.

The Pilot will be administered at multiple Schools (''School'') that volunteer to participate and are selected by FSA in consultation with the Pilot Implementer(s). Evaluation of the Pilot will be conducted by an independent party using a mixed methods research protocol, which combines quantitative and qualitative assessments to measure benefits and perceptions of Program utility, efficiency, and ease of use by Customers (''Customer'') and Schools.

The Government will not make payments to the Pilot Implementer(s) for any aspect of the Pilot. The Pilot Implementer(s) may not charge any fees to participating Customers for any aspect of the Payment Vehicle Account or any other activity in association with the Pilot. Additionally, the Pilot Implementer(s) must ensure that, for participating Schools, the debit fee rate or an interchange rate (including for tuition, fees, and School-owned merchants such as bookstores, cafeterias, etc.) will be assessed at $0 or 0 percent.

Student participation in the Pilot is voluntary. The Pilot Implementer(s) and Pilot Participant(s) (''Pilot Participant(s)'') must have policies to protect the security and privacy of the personal and private information of Customers who elect to participate in the Program. See Section I and Subsection *Privacy of Customer Information and Restrictions on Marketing Use,* for more information.

All personal and related transaction information is the property of the participating Customer and named Issuing Financial Services Institution (''Issuing Financial Services Institution'') of the Payment Vehicle Account as required by Federal and State laws that apply to financial services institutions. Any use of participating Customer-specific Payment Vehicle Account information must be authorized with explicit participating Customer opt-in methods on a by-occurrence basis, and *not* through general or blanket opt-in methods. Under the Cooperative Agreement, the Pilot Implementer(s) will be required to provide noncustomer specific, aggregated or disaggregated Program-related information to FSA by way of reports that ensure the anonymity of participating Customers.

I. Opportunity Description

Definitions: For purposes of this Notice and the Pilot, the following definitions apply:

• *Application* is the document completed by entities that wish to be considered as Pilot Implementers.

• *Co-brand* is a strategic alliance of multiple brands, which will include the FSA brand and may include the brand of the Issuing Financial Services Institution and Payment Brand.

• *Cooperative Agreement* is the legal instrument that will establish the relationship between the Department and the Pilot Implementer(s).

• *Customer* is any person who is attending or associated with a School and received title IV aid from FSA.

• *Department* refers to the U.S. Department of Education.

• *Government* refers to the United States Federal government acting through the U.S. Department of Education and its Federal Student Aid office, and other authorized agencies.

• *Issuing Financial Services Institution* is the financial services institution that issues the Payment Vehicle Account to participating FSA Customers.

• *myMoney Tile* is a tile within the Super Portal Mobile App through which the Vendor Mobile App is launched.

• *NextGen* refers to FSA's Next Generation Financial Services Environment, a new digital engagement services and payments platform developed by FSA to ensure FSA Customers enjoy a world-class customer experience throughout their education finance journey.

• *Notice* is this announcement of the opportunity for parties to pilot a Payment Vehicle Account Program.

• *Payment Brand* is a payment network or clearing authority ensuring funds are settled between the merchant's bank and the Issuing Financial Services Institution.

• *Payment Vehicle Account* is an account established by the Payment Vehicle Account Program for participating Customers to receive their credit balance funds for title IV Federal aid and other student aid, which may also be used to conduct other transactions through both a physical and virtual card. The participating Customer is the owner of the Payment Vehicle Account.

• *Payment Vehicle Account Product (*or *Product)* represents the features, functionality, and attributes of the Payment Vehicle Account as provided by the selected Pilot Implementer(s) and Pilot Participant(s).

• *Payment Vehicle Account Program (or Program)* is the complete set of offerings, features, and benefits of the Payment Vehicle Account including: Payment capability, Vendor Mobile App, participating customer enrollment/engagement, and other content or tools. It is managed by the Pilot Implementers through the process outlined in this Notice.

• *Pilot* is the initial and test phase of the Payment Vehicle Account Program.

• *Pilot Implementer(s)* is a party that works directly with FSA by way of a Cooperative Agreement and is responsible for providing a turnkey Payment Vehicle Account Program solution that includes at least the combination of an Issuing Financial Services Institution, Processor, Payment Brand and Product. A Pilot Implementer must be an Issuing Financial Services Institution, Processor, or Payment Brand. *Note:* A Pilot Implementer may also be a Pilot Participant.

• *Pilot Participant(s)* is a party that works directly with the Pilot Implementer(s) under a contract or other appropriate teaming arrangement to implement the Payment Vehicle Account Program and may be either the Payment Brand, Issuing Financial Services Institution, or Processor. *Note:* A Pilot Implementer may also be a Pilot Participant.

• *Processor* is the company that processes transactions from a merchant through the Payment Brand and Issuing Financial Services Institution and processes Payment Vehicle Account statements.

• *Schools* are institutions of higher education, such as postsecondary schools, vocational schools, universities, and colleges that have a Program Participation Agreement with the Department under which their students may receive Federal student loans under title IV of the Higher Education Act of 1965, as amended.

• *Super Portal Mobile App* is FSA's myStudentAid Super Portal Mobile App, a key component of the NextGen digital platform that contains numerous tiles, one of which is the myMoney Tile.

• *Vendor Mobile App* is the app provided by the Pilot Implementer(s) through which participating Customers can interface with the Issuing Financial Services Institution to manage and self-service their Payment Vehicle Accounts. It is launched via the myMoney Tile residing in the FSA Super Portal Mobile App.

Background

FSA is undertaking transformative measures to establish the Next Generation Financial Services Environment (''NextGen'') to ensure FSA Customers enjoy a world-class customer experience throughout their education finance journey. The size and scale of FSA's consumer loan portfolio operations are on par with the largest lenders in the United States, including:

• Approximately 42 million Customers across the student-lending lifecycle.

• A total lending portfolio of over $1.4 trillion in outstanding principal and interest balances.

• Annual originations of over 17 million student loans.

• Annual processing of nearly 250 million payment transactions.

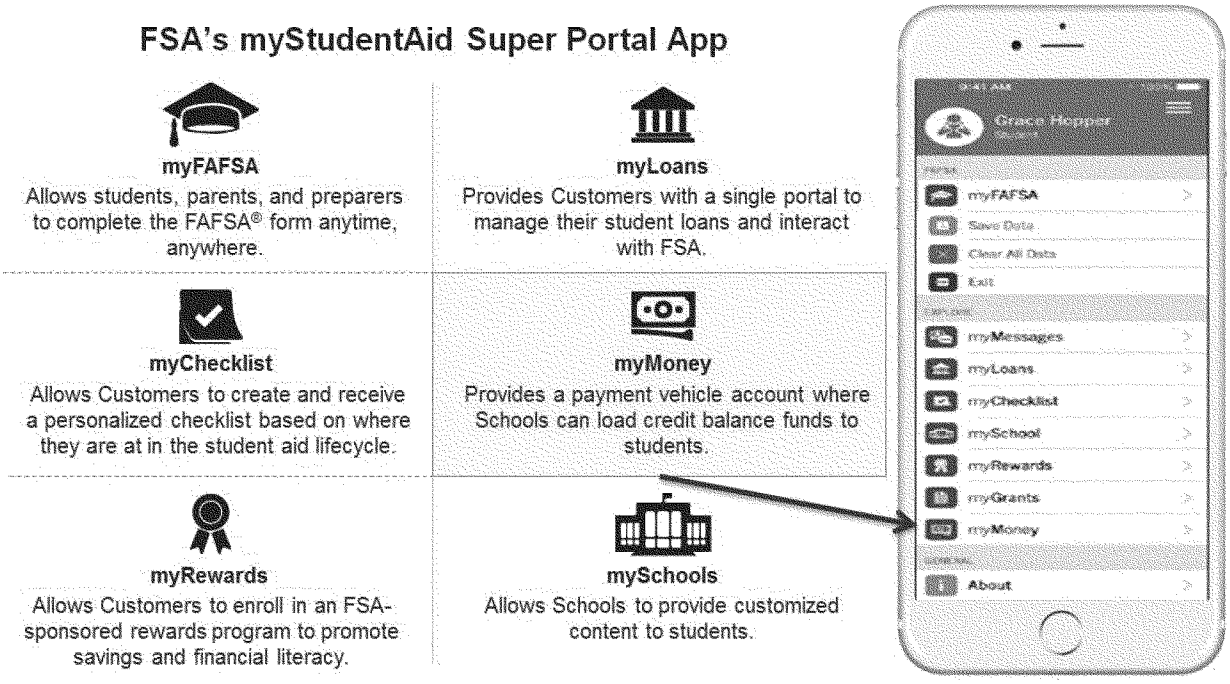
• Annually processing of 50+ million disbursements totaling more than $125 billion.

FSA's Next Generation Financial Services Environment digital platform, along with an omni-channel customer engagement strategy and commitment to enhanced FSA branding, intends to provide easy, seamless, and more frequent customer interactions. Mobile-first, mobile-complete, and mobile-continuous digital customer service will drive short- and long-term positive outcomes for students and provide better value to taxpayers.

Payment Vehicle Account Program Pilot Overview: The FSA Payment Vehicle Account Program is designed to: Provide a no-fee Payment Vehicle Account to participating Customers; streamline the Schools' processing of credit balance funds for title IV Federal student aid and other student aid; and kick-start and continuously promote the interaction between FSA and its Customers via FSA's myStudentAid Super Portal Mobile App, which will bring into greater focus that the Federal Government, through FSA, is the originating source of the student's Federal student aid. Increased, repeat, and positive interactions with FSA and the Customer may help to establish a stronger relationship and in turn help ensure that FSA is the first place Customers turn to for information about their Federal student aid.

FSA's Super Portal Mobile App, which was fully launched on October 1, 2018, is a component of NextGen's mobile-first, mobile-complete, and mobile-continuous digital customer service strategy. The Super Portal Mobile App features the new and improved Mobile FAFSA® and other student aid resources. FSA plans to include capabilities and functionalities for FSA's Customers to not only manage their student aid but to also receive proactive engagement and financial literacy guidance. Financial literacy guidance will provide the Customer with increased access to educational materials related to a Customer's Federal student aid obligations and options, which are intended to allow students to make more informed and

effective financial decisions. To integrate the Payment Vehicle Account Program into the NextGen digital platform, a tile within the Super Portal Mobile App labeled myMoney (''myMoney Tile'') will launch the Pilot Implementer(s)'s Vendor Mobile Account App (''Vendor Mobile App''). The following representation is for illustrative purposes only:



FSA will execute a Cooperative Agreement with one or more Pilot Implementer(s) to conduct the Pilot. The Pilot will be a ''test-and-learn'' phase for FSA to assess, based on the experience of the Pilot Implementer(s), potential strengths and challenges of introducing a Payment Vehicle Account program that will inform efforts to potentially take such programs to scale. Applications for Pilot Implementer(s) will be accepted as described in this Notice.

FSA seeks Pilot Implementer(s) who will coordinate with other Pilot Participant(s) to drive technology innovation in payment services, deliver world-class customer service, and recognize the benefits such an opportunity provides. The principal purpose of these agreements is to accomplish a public purpose authorized by 34 CFR 668.164 and, in accordance with 20 U.S.C. 1018(a)(2)(A), ''to improve service to students and other participants in the student financial assistance programs.'' As detailed further throughout, we expect there will be substantial interaction and involvement between FSA and the selected Pilot Implementer(s) when implementing and operating the Pilot.

FSA will oversee and monitor the Pilot and all associated activities, including the use of the FSA brand. Pilot Implementer(s) will provide reports regularly, so that FSA can ensure that the Pilot Implementer(s) are properly carrying out the Cooperative Agreement. FSA sets the requirements that Pilot Implementer(s) must adhere to for the use of the FSA-branded Program, including those regarding the marketing of data associated with the Payment Vehicle Account.

Rationale for the Program

Eligible colleges and universities receive FSA student financial aid funds directly from the Department and then apply these funds to student accounts to cover the cost of tuition and fees. These Schools are required to provide the credit balance funds to students in a transparent, timely, and cost-effective manner, at least parts of which are at no cost to the student. (34 CFR 668.164). This Pilot would be a completely no-cost solution for participating Customers.

To provide credit balance funds, Schools use a variety of methods including: Depositing the funds onto a payment card, electronic funds transfer using the Automated Clearing House (ACH) process, drafting manual checks, and even cash disbursements.

Through the Cooperative Agreement, FSA seeks to support and stimulate a Payment Vehicle Account Program that provides the following:

- *An optional and consistent credit balance fund payment method*—FSA Customers need a robust, no-fee method that provides easy access to credit balance funds for title IV Federal student financial aid and other student aid. Schools need a no-fee, simplified, and consistent method to administer credit balance funds.
- *Reduce the burden on Schools*—The Program would remove the burden on Schools to negotiate with third parties for credit balance fund disbursement products.
- *Student privacy and data protections*—The Program would provide clear and consistent guidance with respect to specific participating Customer privacy and protection issues such as those related to Payment Vehicle Account Product (''Product'') cross-marketing.
- *Provide a financial services institution transaction account to students without such accounts*—The Program would provide a financial services institution transaction account to low-income students who might otherwise find it difficult to establish such an account.[1]

[1] According to the *2015 Federal Deposit Insurance Corporation (FDIC) National Survey of*

Continued

Importance of the Program: Receiving Federal student aid may be the first encounter a student has with a financial services product, as well as his or her first experience with the Government. As such, the FSA Payment Vehicle Account Program presents a unique opportunity for FSA and the Government to demonstrate a positive customer experience, and to bring into focus for the student that the Federal Government, through FSA, is the originating source of their Federal student aid. Bringing an understanding of the originating source into focus for the student is important because it helps to ensure that FSA is the first place Customers turn for information regarding their Federal student aid, which in turn ensures that the Customer receives the most accurate and trustworthy information regarding their aid.

Program Goals

The Program is seeking to accomplish the following:

- *Payment Vehicle Account*—Provide an economically advantageous no-fee Payment Vehicle Account for participating FSA Customers to receive their credit balance funds for title IV Federal student financial aid and other student aid, and conduct financial transactions with both physical and virtual card features. The Payment Vehicle Account could become the primary payment utility vehicle for FSA Customers to receive both FSA funds and non-FSA funds, which may originate from Schools, grant providers, employers, family members, or other third-party sources.
- *Digital experience*—Utilize state-of-the-art digital technology via the Vendor Mobile App to interact with participating Customers that is consistent, convenient, relevant, simple, and secure.
- *Customer engagement*—Provide an FSA-branded customer experience for FSA Customers and Schools that promotes engagement and frequent use of the Vendor Mobile App.
- *Process improvement*—Achieve greater operational efficiency and flexibility with Federal student loan and grant fund administration for Schools and FSA.
- *Technology innovation*—Establish an agile technology platform where innovation and flexibility are hallmarks of how new capabilities and features should be deployed for continuous improvement to customer experience and responsiveness to mandated policies, procedures, and laws. Technology exists to accomplish this, and more, for the overall benefit of FSA Customers and taxpayers.

To meet FSA's stated objectives, the Program will require a unique combination of product features and enhanced digital services via the Vendor Mobile App working in conjunction with the FSA Super Portal Mobile App. The Payment Vehicle Account must operate using ''eBanking'' features at its best.

School Selection

In the second phase of the selection process for this Pilot, which will be conducted at a later date, FSA will reach out to Schools to gauge their interest in participating in the Pilot. Of the Schools that confirm interest in participating in the Pilot, FSA, by way of committee, will make individualized determinations about which Schools to invite to participate. FSA will consider input from the Pilot Implementer(s) when making these determinations. FSA will directly notify those Schools that it selects to participate.

Program Pilot Requirements: Parties applying to be Pilot Implementers must address the following items in their Applications:

Pilot Implementer(s)'s Duties & Responsibilities:

The Pilot Implementer(s) must provide a Payment Vehicle Account for eligible participating Customers and students currently enrolled in postsecondary education who receive Federal student financial aid. Eligible Customers are borrowers that are eligible for Title IV funds and attend a participating school location. The Pilot will include multiple Schools where FSA Customers will be offered the Payment Vehicle Account as a new option to receive credit balance funds for title IV Federal aid and other student aid. Subject to change at FSA's sole discretion, the Pilot will include multiple School site locations.

As noted above, FSA will consider input from the Pilot Implementer(s) when selecting Schools for the Pilot. A Pilot Implementer will be responsible for executing an agreement with one or more of the School(s) selected for the Pilot. FSA will work with the Pilot Implementer(s) and School(s) to structure the basis of this agreement.

The Program Pilot requirements create a relationship between the participating Schools and the selected Pilot Implementer(s) that will be defined as a Tier 2 arrangement under the Department's Cash Management Rules. Thus, compliance with 34 CFR 668.164(d)(4)(i) and 34 CFR 668.164(f)(4) is required. The Pilot Implementer(s) must deliver a full turnkey solution. When submitting an Application in response to this Notice, a prospective Pilot Implementer shall set forth a narrative describing how it will assume the duties and responsibilities of overall Pilot implementation.

Prospective Pilot Implementer(s) must fully describe which Pilot Participant(s) will provide the following functional activities: Product Design, Payment Brand (''Payment Brand''), Issuing Financial Services Institution, Processor (''Processor''), Program marketing to Customers, and Program interface with and training for Schools.

Customer Journeys

The Pilot Implementer(s)'s understanding of FSA Customer journeys is critical to the success of the Program. Therefore, applicants must provide journey mapping throughout the customer lifecycle to communicate an understanding of the touchpoints and outcomes for each of the following stages: Awareness, reach, acquisition, usage, customer support, retention, financial literacy, and high customer satisfaction with the Payment Vehicle Account Product.

Features and Functionality

Enrollment and Setup. Pilot Implementer(s) must provide Payment Vehicle Account application, set-up, activation, and usage, with no requirement for a Customer credit check. Pilot Implementer(s) must provide Payment Vehicle Account disclosures, subject to FSA approval. Participating Customers must receive both a physical card and a virtual card controlled via the Vendor Mobile App. The Payment Vehicle Account must function as a complete transaction account, providing zero Customer liability (for theft, lost card, and fraud), charge-back rights, and have funds protected by the Federal Deposit Insurance Corporation (FDIC) or the National Credit Union Administration (NCUA). Pilot Implementer(s) must manage enrollment and communicate with FSA participating Customers about Payment Vehicle Account activation for new Payment Vehicle Accounts. Students are not required to participate in the Payment Vehicle Account Program. Customer participation is strictly voluntary.

Unbanked and Underbanked Households, the unbanked and underbanked rates for lower-income households were higher as compared to households with higher incomes. When citing reasons why households were unbanked, an estimated 57.4 percent of unbanked households cited the reason ''do not have enough money to keep in the account'' and an estimated 27.7 percent cited the reason ''account fees too high.''

Funding by Schools. Schools must directly fund the participating Customer's Payment Vehicle Account with the Customer's credit balance funds and communicate with the participating Customer about the status of the credit balance fund and timing, as they currently do with other credit balance fund processes. Schools may provide both the FSA portion as well as other money, such as State and institutional aid funds, to the Payment Vehicle Account. Participating Customers must have the ability to use the Vendor Mobile App to verify that funds are available prior to use of the account. To ensure proper Payment Vehicle Account funding, the Pilot Implementer(s) must work with the Schools to efficiently deposit credit balance funds for title IV Federal aid and other student aid to the participating Customer's activated Payment Vehicle Account.

Funds In/Out. Methods for transferring funds using the Vendor Mobile App must include: Direct deposit, remote deposit capture, Automatic Teller Machine (ATM), ACH, merchant-based deposits, debit, one-time or recurring e-payments (specifically to include a payment for repayment of Federal student aid), and electronically generated paper checks to pay for products and services that do not accept electronic payments. Funds may be sourced from various third parties, such as School financial aid offices, retail locations, employers, peer-to-peer, parents, etc.

Acceptance. The Payment Vehicle Account must demonstrate the ability to be accepted at a wide variety of merchants, both on and off campus, and at any merchant accepting electronic payments and for e-commerce transactions. The acceptance process must allow for swipe, chip, PIN, and contactless payments for physical cards while the Vendor Mobile App must allow for contactless payments from iOS and Android smartphones.

ATMs and Bank/Credit Union Cash. The physical card and companion Vendor Mobile App must be compatible with commercial ATM standards to allow ATM cash withdrawals. A comprehensive no-fee ''in-network'' ATM capability must be available as well as a no-fee ''out-of-network.'' More specifically, the Pilot Implementer must ensure convenient access to the funds in the financial account through a surcharge-free national or regional ATM network that has ATMs sufficient in number and housed and serviced such that title IV funds are reasonably available to students, including at the times the institution or its third-party servicer makes direct payments into the financial accounts of those students. Additional no-fee cash locations are encouraged, such as over-the-counter branch withdrawals.

Vendor Mobile App. The Vendor Mobile App must allow for real-time interface with the FSA Super Portal Mobile App. Primary features of the Vendor Mobile App include, but are not limited to: Robust customer self-service controls, such as card on/off, account status, current balance, eReceipts, statements, limits/budgeting, history; the participating Customer's ability to manage spending by geographic location or merchant code or dollar amount; ATM locator; and direct connectivity to the payment authorization stream for real-time transaction alerts, fraud alerts, travel alerts and user level alerts.

Overdraft/NSF. Pilot Implementer(s) must ensure that no overdraft or insufficient funds fees will be charged as a result of this service. The Payment Vehicle Account must demonstrate the ability to ensure protection against overdrafts and any overdraft fees.

Card Features and Additional Attributes. The selected Pilot Implementer(s) will be invited to provide details regarding potential additional benefits that may be relevant for students and be provided at no cost to the participating Customer, such as: Purchase protection, extended warranty, roadside assistance, travel assistance, lost/delayed baggage protection, identity theft protection, credit report monitoring, car rental insurance, and interest paid on funds balances.

Customer Service

General. The Payment Vehicle Account must have omni-channel customer support to include: Online self-service via the Vendor Mobile Account; web; Interactive voice response (IVR); and live agent assistance via phone, chat, email, and Short Message Service (SMS). Customer service must account for exceptional peak period coverage for call center staffing at the beginning of each semester when loans are disbursed, and exceptional customer ''make good'' arrangements must be in place with regard to fraud or other Payment Vehicle Account issues. Customer service must also provide for highly responsive and effective error resolution, complaint management processes and warm transferability between Schools (if feasible), FSA, and Pilot Implementer(s)'s call centers. To support participating FSA Customers, Schools, and FSA Administrators, the Payment Vehicle Account requires a robust customer service program to resolve Payment Vehicle Account-related issues, inquiries, fraud (including suspicious activity notifications), chargebacks, and disputes. The Pilot Implementer(s) are responsible for card issuance, replacement, cancellation, card issuance infrastructure, and other items as appropriate to provide physical and virtual cards.

Support Levels. The Pilot Implementer(s) must operate full levels of support for Payment Vehicle Account servicing for participating FSA Customers. First-level support is responsible for: How contacts will be accepted into digital, online, or live support operations; problem triage determination and appropriate action; and contact transfer to second-level support or other appropriate resources as designed in the customer journey. For Payment Vehicle Account servicing and issues related to fraud or misallocation of funds, the Pilot Implementer(s) will provide first-level support for participating Customers with connection points to second- and third-level support via FSA-staffed call centers or other resources for questions outside of the Program's mandate.

myMoney Tile and Vendor Mobile App: The selected Pilot Implementer(s) will provide the companion Vendor Mobile App, which will launch behind the myMoney Tile located in the FSA Super Portal Mobile App. Thus, the Vendor Mobile App must be designed to integrate with the existing framework of the Super Portal Mobile App. The Vendor Mobile App must be a free download and must support Android phones, iOS phones, and all versions that the Super Portal Mobile App supports. Maintenance must follow Android and iOS update protocols maintaining backward and future compatibility. The Vendor Mobile App must be compliant with applicable accessibility standards. The Pilot Implementer(s) must ensure technical and operational feasibility of the Payment Vehicle Account and Vendor Mobile App by testing required functionality and specifications before the launch of the Pilot. The Vendor Mobile App must implement security protocols to protect mobile Payment Vehicle Accounts.

Program Training

The Pilot Implementer(s) will be responsible for Program training and collaborating with the School, as appropriate. The Pilot Implementer(s) will also be responsible for creating awareness programs and providing any necessary training for Schools. The Pilot Implementer(s) will determine the

process and appropriate level of customization needed for Pilot implementation at Schools and will be responsible for training Customers on benefits and use of the Payment Vehicle Account. The Pilot Implementer(s) will coordinate with FSA customer service to coordinate procedures and to ensure knowledge transfer to effect world-class customer service among various service-level tiers.

Program Communication and Branding

The Pilot Implementer(s) are responsible for developing and executing a communication campaign for each School participating in the Pilot for the purpose of effectively promoting the Payment Vehicle Account to FSA Customers. The campaign must provide information that will help Schools and potential Customers understand the Program. Plastics, Vendor Mobile App, and all customer-facing communications should be FSA Co-branded (''Co-brand''). Customer service call centers should answer the phone with FSA Co-brand acknowledgement. Additionally, the Payment Vehicle Account card design(s) and all communication materials should be unique and appealing to the student market. FSA must concur with all Payment Vehicle Account Program communication campaigns.

Privacy of Customer Information and Restrictions on Marketing Use

The Pilot Implementer(s) are responsible for having policies to protect the security and privacy of the personal and private information of Customers who elect to participate in the Program. Participating Customer data associated with the Payment Vehicle Account will be restricted as to any marketing use. Pilot Implementer(s) may not use participating Customer data for marketing purposes without explicit permission from the Customer. Any use of the Payment Vehicle Account/participating Customer data to offer other financial relationships can only be requested by the Pilot Implementer(s) and granted by the participating Customer on a specific individual case-by-case basis. As such, any use of Payment Vehicle Account information for marketing purposes may be authorized only with explicit opt-in (on a by-occurrence *only* basis and *not* through general/blanket opt-in or through any opt-out methods) by the participating Customer. Any participating Customer data used by the Pilot Implementer(s) or Pilot Participants for purposes other than administering the Program Pilot, such as offering other financial relationships and marketing use after explicit opt-in, must be data the Pilot Implementer(s) or Pilot Participants receive directly from the participating Customer and not from participating Schools.

Under the Cooperative Agreement, the Pilot Implementer(s) will be obligated to provide noncustomer specific aggregated Program-related information to FSA. Additionally, FSA will not receive any individual Customer records or other individually-identifiable information from other entities involved in the Pilot, including but not limited to Program Participant(s) or Schools. These restrictions on data ownership and use will continue after the expiration of the Pilot and in perpetuity.

Reporting

Pilot Implementers will not share Customer-level specific data with FSA nor will FSA share Customer-level specific data with Pilot Implementers. Pilot Implementers will provide reports to FSA containing only aggregate data for purposes of FSA's monitoring of compliance and Program progress.

To ensure anonymity of participating Customers and that data remain in the aggregate, reports will only be provided to FSA when the report methodology provides strict assurance of customer identity anonymity through statistical analysis or expert analysis. The Pilot Implementer(s) must provide to FSA a set of aggregated information reports, at regular intervals, to assist in the monitoring and oversight of the Program. FSA will utilize these aggregated information reports to ensure that the Pilot Implementer(s) are adhering to their obligations under the Cooperative Agreement. FSA will maintain the right to request additional Program-related reports, and on a frequency as determined by FSA.

At a minimum, the Pilot Implementer(s) must provide reports to FSA at regular intervals, to be determined by FSA after taking into consideration the selected Pilot Implementer(s) recommendations. Reporting intervals and report type classification is subject to change based on reporting needs. Reporting will include but is not limited to: Vendor Mobile App reports showing aggregated usage (page views, downloads, tile views, etc.) and complaints captured through the FSA Feedback System; a copy of the quality assurance program and related reports; call center activity reports; and complaint management reports for: Dispute requests, chargebacks, fraud, etc. Aggregated spending reports categorized by merchant type will also be required. The Pilot Implementer(s) are also responsible for reports for key performance indicators and lost and stolen card reporting.

Additionally, the Pilot Implementer will provide FSA with detailed periodic market research reports relative to participating Customers and Schools to gauge Program status and participating School/Customer satisfaction and perception.

Participating Customers must be provided with a complete report of their monthly statement showing all purchases, deposits, and other Payment Vehicle Account activity. Pilot Implementers are encouraged but not required to include a Payment Vehicle Account feature that provides a monthly and annual budget summary statement breaking down categories of spending.

Security

Pilot Implementer(s) must protect participating Customer data and participating Customer privacy using industry-leading technologies and methods. Payment Vehicle Account security methods must allow for Customer-operated account management controls with direct access to the payment authorization stream that enables participating Customers to activate Payment Vehicle Account alerts and Customer-driven account and information control features. Pilot Implementer(s) must ensure that high-level data security protocols are employed including: Encryption of data in transit and at rest; and security authorization and testing to thwart hacking or data intrusion in accordance with payment card industry standards, other relevant regulations, and state-of-the art practices. Payment Vehicle Account security must maintain a high order of commercial security standards including: Lost/stolen cards reporting; fraud prevention and alerts; mobile PIN reset; suspicious activity notifications; and the use of standard payment brand chip and PIN, and appropriate tokenization.

Program Governance

Quality Control. The Pilot Implementer(s) will establish and execute a Quality Control Plan that ensures all requirements and performance standards in the Cooperative Agreement are met. The Quality Control Plan must incorporate functional and physical configuration audits. The performance requirements and standards outlined must minimally include: Document control, records management, corrective action management, internal audits/self-assessments, monitoring, training, management of teaming partners,

vendors and other third parties, and performance metrics through collection of data analytics to evaluate system trends. The Quality Control Plan must be reviewed and updated at least annually or when a significant change occurs. This plan, and compliance with it, may be audited by FSA at any time.

Risk Management. The Pilot Implementer(s) will establish a dynamic, robust, and forward-thinking risk management plan designed to identify, assess, manage, and monitor risks. It must incorporate reporting, monitoring, and process impact analysis. This Quality Control Plan analysis must include, at a minimum: A clear process for the identification, assessment, management, and monitoring of risks; a complete risk register with risks identified and assessed; mitigation plans for management of high and medium risks; clear monitoring and escalation processes with supporting reports; and a robust issues log with specific corrective action plans. The risk management plan must be reviewed and updated at least quarterly or when a significant event occurs. The plan may be audited by FSA at any time.

Pilot Implementers must provide a list of reports generated throughout the Pilot Implementer's and Pilot Participant's security, compliance, and governance operations. All Pilot Implementers must allow FSA, or its designated agent, to inspect any risk, compliance, security, assessment, or penetration testing report relevant to the systems, processes, and services performing servicing.

Compliance. The Pilot Implementer(s) must agree to abide by all applicable rules and laws including, but not limited to: Federal and State rules and laws governing financial services institutions, privacy rules and laws, consumer laws, and relevant Payment Vehicle Account set-up and operational rules. The Pilot Implementer(s) must maintain compliance with all Federal and State requirements governing financial services institutions, including adhering to industry best practice with relation to cyber security measures. Under the Cooperative Agreement, the Pilot Implementer(s) will be required to abide by a specific list of relevant laws, rules, and regulations. Additionally, FSA may require the Pilot Implementer(s) to work with the School(s) to audit the participating Customer list to validate that only individuals eligible for title IV financial aid, at the time of Payment Vehicle Account inception, are participating in the Payment Vehicle Account Program.

Timeline and Project Plan

The Pilot is intended to go live within 60 days of signing of the Cooperative Agreement, and to conclude in December 2020, or earlier, at the sole determination of FSA. As stated above, the Payment Vehicle Account Program Pilot may be extended, or terminated early, at the sole discretion of FSA.

In the event a Pilot Implementer or Pilot Participant voluntarily withdraws from the Payment Vehicle Account program, or FSA elects to remove the party, the Pilot Implementer shall ensure the participating Customer is not charged a fee nor have funds frozen as part of transitioning his or her service to another provider or solution at FSA's discretion and timeline.

The Pilot Implementer(s) must submit a high-level project plan that adheres to the Department's projected target live date of 60 days after signing the Cooperative Agreement. The Pilot project's schedule must indicate when specific Product features will be completed and available for use by FSA Customers and provide a narrative with the project plan to highlight when Product features exceed requirements.

Innovation Strategies

FSA encourages the Pilot Implementer(s) to continually recommend new strategies and identify innovative enhancements regarding the Program such that the Program remains state-of-the-art. This should include defining the process for ongoing collaboration with FSA and innovation, and coordinating the prioritization of enhancements.

Investment

During its evaluation for selection of potential Pilot Implementer(s), the Department will consider the applicant's proposed investment to fund Program Pilot development, implementation, and ongoing management in furtherance of the Pilot's intended goals. Pilot Implementer(s) must provide estimates of expected monetary and nonmonetary investments.

Cost and Fee Schedule

The Pilot Implementer(s) may not impose any costs or fees on participating Customers or Schools related to the Pilot of the Payment Vehicle Account Program, including but not limited to: Account activation, account closure, account dormancy, balance inquiry, funds load/reload, card swipe, customer service, deposit item return, electronic generated checks, emergency cash advances, access to account information, foreign transactions, in-network ATM withdrawals/deposits, out-of-network ATM withdrawals/deposits, insufficient funds, lost or stolen card reporting, maintenance or residency, membership, overdraft, peer-to-peer loads, replacement card, stop payment, and use of alternative cash locations (bank/credit union tellers or merchants). *No costs or fees of any kind may be imposed on participating Customers.*

The Pilot Implementer(s) must work with the Pilot Participant(s) to ensure that, for participating Schools, the debit fee rate, or interchange rate (including for tuition, fees, and School-owned merchants such as bookstores, cafeterias, etc.) will be assessed at $0 or 0 percent (or, if debit fees or interchange fees are charged, that such costs are reimbursed to Schools). Other transactions for non-School merchants may be assessed at standard debit fee or interchange rates. Specifics of the payment flows between Participants will be left to the Pilot Implementer(s) to determine.

In association with the Program Pilot, the Government will make no payment of any kind to a Pilot Implementer or any other entity under the Cooperative Agreement. The Government will not accept any payment from a Pilot Implementer or any other entity under the cooperative agreement.

Proposed Pilot Assessment Plan

The Pilot will assess how and how well the Payment Vehicle Account Program is implemented, including how Schools and Customers respond to it. The assessment will use a mixed-methods research approach with both quantitative and qualitative elements. The implementation measures will include, but will not be limited to: Application click rates, downloads, page views, student acceptance rates and satisfaction, and product usage. These will be compared or benchmarked to those of other financial products to gain perspective on responsiveness. In addition, surveys or interviews will be conducted to examine such issues as implementation challenges and funding sources.

For example, FSA will determine if the Pilot is meeting its Payment Vehicle Account objective by examining Program adoption rates. Whether the Program offers a state-of-the art digital experience and technology innovation will be assessed in two ways: Through customer satisfaction ratings and by comparing the technology at and throughout implementation to that used in comparable financial products, including new features introduced. The customer engagement objective will be

assessed by customer satisfaction ratings and Program usage. Process improvement will be assessed with School feedback and satisfaction ratings, and the strengths and challenges reported by the Pilot Implementer(s) and the Schools.

In evaluating the Pilot Implementer(s)' performance under the Cooperative Agreement, FSA will engage the assistance of a qualified party or organization.

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (5 U.S.C. 553) and the Higher Education Act of 1965, as amended, the Department generally offers interested parties the opportunity to comment on proposed selection criteria, definitions, and other requirements. This is the first competition under 20 U.S.C. 1018 and 34 CFR 668.164(d)(3). With regard to these selection criteria, definitions and other requirements, we are waiving rulemaking consistent with section 437(d)(1) of the General Education Provisions Act (GEPA), 20 U.S.C. 1232(d)(1).

Program Authority: 34 CFR 668.164(d)(3); 20 U.S.C. 1018.

II. Applicant Eligibility Information

Eligible Applicants

In order to qualify as Pilot Implementers for the Payment Vehicle Account opportunity, interested applicants must demonstrate that they have the capability to meet the Program Pilot requirements by the implementation date, as outlined in this Notice. Furthermore, applicants are encouraged to submit Applications for Pilot Implementer which offer solutions that exceed the stipulated requirements.

FSA will select one or more applicants to become the Pilot Implementer(s). The Pilot Implementer(s) will be responsible, via a Cooperative Agreement, for providing a turnkey solution for the Pilot.

Coordination

Pilot Implementer(s) must be willing and able to work with other entities affiliated with the Government, as well as other organizations that might conduct activities integral to the success of the Program. Additionally, to maximize testing and learning results, FSA may select multiple Pilot Implementers. If more than one Pilot Implementer is selected, each selected Pilot Implementer will carry out a unique Pilot at their assigned specific participating School or Schools rather than FSA requiring multiple Pilot Implementers to coordinate activities at the same School location(s).

III. Application Format

We recommend that applicants respond to this Notice (1) using 12 point, Times New Roman font, and (2) limit their Applications to 30 total pages, single-sided. This allows for up to 18 pages for selection criteria and up to 12 pages of supporting exhibits.

Applications submitted in response to this Notice must include the following general information: Applicant's name and address; and the representative's name, contact phone number, and email address. Applications should also follow the format as detailed in the following Section IV, *Application Selection Criteria,* of this Notice for: Strategic Fit and Technical Capability; Past Performance and References; and Investment. FSA also encourages Pilot applicant(s) to set forth innovative ideas for accomplishing the objectives of the Pilot. Innovative ideas should be included when responding to the criterion for Strategic Fit and Technical Capability.

IV. Application Selection Criteria

FSA will evaluate Applications to determine which applicants it will invite to make in-person presentations based on the criteria described below. An applicant's ability to meet the Strategic Fit and Technical Capability selection criterion is most critical and, thus, will be the most heavily weighted selection criterion factor. Suggested page limits for applicants' responses to each criterion are noted in parentheses below.

(a) Strategic Fit and Technical Capability (up to 10 pages) (70 Points)

In determining strategic fit and technical capability, including an applicant's privacy and security policies and capabilities, FSA will evaluate: How well an applicant understands and fulfills the objectives and requirements of Section I and the Subsection titled *Program Pilot Requirements,* the capability of the applicant to meet those objectives and requirements, and how innovative its technical ideas are. Please note that all Program Pilot requirements will be evaluated as part of this selection criterion with the exception of the Investment requirement, which will receive independent consideration as described below.

(b) Quality of Past Performance and References (up to four pages) (10 Points)

The Department will consider the relevance and quality of each applicant's past performance. FSA requires each applicant to provide at least three references, but we will consider no more than five references, for each applicant. All references must relate to payment program-type projects. References may relate to the proposing Pilot Implementer(s) or Pilot Participants included in an Application.

For all references, the proposing Pilot Implementer(s) must provide the following information: Name of reference organization, project type, specific operating entities involved in the work, specific product/service, period of performance, and geographic reach. Additionally, for all references, the proposing Pilot Implementer must provide the contact information for the project officer (or equivalent), which must include the individual's name, telephone number, and email address.

For each reference, the proposing Pilot Implementer(s) must highlight how the previous experience exemplifies exceptional capabilities and high-quality outcomes in delivering and/or developing successful payment solutions. This may include, but is not limited to, providing details related to: Data security, program scale, overcoming functional and organizational challenges, delivered successful solutions (*e.g.,* improved customer service, lowered operational costs, increased digital interactions, improved customer adoption rate, and increased utilization), and development timeline and costs.

FSA will make commercially reasonable efforts to contact all provided references in order to verify the accuracy of the information provided. *It is extremely important that references be advised that FSA may be contacting them.* Additionally, FSA will seek the following information about the Pilot Implementer(s) from references: The record of performance according to specifications, including standards of good workmanship; The record of controlling and forecasting costs; the adherence to contract schedules, including the administrative aspects of performance; the record of managing the operations and performance of subcontractors; the reputation for reasonable, cooperative behavior, and commitment to Customer satisfaction; and the general professional concern for the interest of the Customer.

Additionally, FSA may consider other relevant past performance information on applicants, including but not limited to databases, such as the U.S. Government Past Performance Information Retrieval System or other available Government sources.

(c) Investment (up to four pages) (20 Points)

As noted in the section titled *Program Pilot Requirements* above, an

application must include total anticipated Pilot investment, split into monetary and nonmonetary investments. An applicant's responses to this selection criterion must explain how the applicant's proposed investment will sufficiently fund the development, implementation, and ongoing management and stated goals of the Program Pilot.

V. Application Selection Process

Estimated Number of Selected Applicants: One or More.

A three-person panel established by FSA will review Applications and select a limited number of applicants to attend an in-person presentation and discussion session at FSA headquarters. Sessions will be conducted at the U.S. Department of Education, Federal Student Aid, 830 First Street NE, Washington, DC 20002. FSA will directly notify selected applicants to schedule their sessions. Each selected applicant will be given an individualized session with the three-person review panel (plus other FSA parties or other Federal personnel in attendance). Forty-five minutes will be dedicated to the applicant's presentation with a 45-minute question-and-answer discussion to follow. During the session, applicants are not restricted to Application materials and will be permitted to present additional documents and information. The sessions will be recorded via video, note taking, and/or summary statements. Following all sessions, the three-person panel will determine the selected Pilot Implementer(s) and notify all applicants that they have either been selected or not selected to enter into a Cooperative Agreement to Pilot the Payment Vehicle Account Program.

VI. Application and Submission Information

Other Submission Requirements

Interested entities *must* submit an Application in order to be considered. If an applicant is not able to currently provide all elements of the Program, the applicant should provide a timeline for when those items could be implemented.

Applications may be submitted electronically or in paper format by mail or hand delivery. We will not consider any Application that does not comply with the Application submission deadline requirements.

Proprietary Information

Given the types of information requested for this Pilot, Applications may include business information that applicants consider proprietary. In 34 CFR 5.11, we define ''business information'' and describe the process we use in determining whether any of that information is proprietary and, thus, protected from disclosure under Exemption 4 of the Freedom of Information Act (5 U.S.C. 552, as amended). Consistent with Executive Order 12600, applicants should designate in their Applications any information that they believe is exempt from disclosure under Exemption 4. Applicants should list the page number or numbers on which we can find this information in the appropriate Appendix section of their Applications. For additional information, please see 34 CFR 5.11(c).

Electronic Submission of Applications

If you choose to submit your Application electronically, which is the preferred delivery method, email your Application to *FSAPaymentVehicle@ed.gov.* Please note the following:

- You must complete the electronic submission of your Application by 4:30 p.m., Eastern Time, on November 7, 2018.
- If you choose to submit documents electronically, you must submit all documents, including any narrative sections and all other attachments to your Application as files in a portable document format (PDF) only. If you upload a file type other than a PDF or submit a password-protected file, we will not review that material.
- Prior to submitting your Application electronically, you may wish to print a copy of it for your records.
- We may request that you provide us original signatures on other documents at a later date.
- FSA email systems can only accept incoming files with attachments smaller than 25 MB. If your entire Application package is larger than 25 MB, please send multiple emails with appropriate designations in the subject line and body of the email indicating how many total emails will be sent with submission of your Application.

Deadline Date Extension in Case of System Unavailability

If you are prevented from electronically submitting your Application on the deadline date because *FSAPaymentVehicle@ed.gov* was unavailable, we will grant you an extension of one business day to enable you to transmit your Application electronically, by mail, or by hand delivery. We will grant this extension if:

- *FSAPaymentVehicle@ed.gov* was unavailable for 60 minutes or more between the hours of 8:30 a.m. and 3:30 p.m., Eastern Time, on the deadline date; or
- *FSAPaymentVehicle@ed.gov* was unavailable for any period of time between 3:30 p.m. and 4:30 p.m., Eastern Time, on the deadline date.

We must acknowledge and confirm these periods of unavailability before granting you an extension. To request this extension or to confirm our acknowledgment of any system unavailability, you may email *FSAPaymentVehicle@ed.gov* or call the Project Advisors listed under **FOR FURTHER INFORMATION CONTACT** in this Notice.

Extensions referred to in this Section apply only to the unavailability of *FSAPaymentVehicle@ed.gov.* If *FSAPaymentVehicle@ed.gov* is available, and, for any reason, you are unable to submit your Application electronically, you may submit your Application in paper format by mail or hand delivery in accordance with the instructions in this Notice.

Submission of Paper Copies of Applications by Mail: If you submit your Application in paper format by mail (through the U.S. Postal Service or a commercial carrier), you must mail the original and two copies of your Application, on or before the Application deadline date, to the Department at the following address: Program Administrator for the FSA Payment Vehicle Account Program, U.S. Department of Education, Federal Student Aid, 830 First Street NE, UCP 111G5, Washington, DC 20002.

You must show proof of mailing consisting of one of the following:

(i) A legibly dated U.S. Postal Service postmark.

(ii) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(iii) A dated shipping label, invoice, or receipt from a commercial carrier.

(iv) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your Application through the U.S. Postal Service, note that the Department does not accept either of the following as proof of mailing:

(i) A private metered postmark.

(ii) A mail receipt that is not dated by the U.S. Postal Service.

If your Application is postmarked after the Application deadline date, we will not consider your Application. Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

Submission of Paper Copies of Applications by Hand Delivery

If you submit your Application in paper format by hand delivery, you (or a courier service) must deliver the original and two copies of your Application by hand, on or before the deadline date, to the Department at the following address: Program Administrator for the FSA Payment Vehicle Account Program, U.S. Department of Education, Federal Student Aid, 830 First Street NE, UCP 111G5, Washington, DC 20002. The Department accepts hand deliveries daily between 8:00 a.m. and 4:30 p.m., Eastern Time, except Saturdays, Sundays, and Federal holidays.

VII. Other Information

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 Project Advisors listed under **FOR FURTHER INFORMATION CONTACT** in this Notice.

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 PDF. To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

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

Dated: October 12, 2018.

James F. Manning,

Acting Chief Operating Officer, Federal Student Aid.

[FR Doc. 2018–22646 Filed 10–16–18; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Procedures for Conducting Electric Transmission Congestion Studies

AGENCY: Office of Electricity, Department of Energy (DOE).

ACTION: Notice of reopening of public comment period.

SUMMARY: The Department of Energy (Department or DOE) is reopening for 15 days the comment period for its proposed procedures for conducting electric transmission studies. DOE published a notice of procedures for studies and request for written comments on August 23, 2018, with a 45-day comment period. This notice reopens the comment period for an additional 15 days, and any comments received before November 1, 2018 will be deemed timely submitted.

DATES: DOE is reopening the comment period for the ''Procedures for Conducting Electric Transmission Congestion Studies'' published on August 23, 2018 (83 FR 42627). The public comment period closed on October 9, 2018. Public comments are due not later than November 1, 2018.

ADDRESSES: You may submit written comments to *congestion.study2018@hq.doe.gov,* or by mail to the Office of Electricity, OE–20, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585. The following electronic file formats are acceptable: Microsoft Word (.doc), Corel Word Perfect (.wpd), Adobe Acrobat (.pdf), Rich Text Format (.rtf), plain text (.txt), Microsoft Excel (.xls), and Microsoft PowerPoint (.ppt).

Delivery of the U.S. Postal Service mail to DOE may be delayed by several weeks due to security screening. DOE, therefore, encourages those wishing to comment to submit their comments electronically by email. If comments are submitted by regular mail, the Department requests that they be accompanied by a CD containing electronic files of the submission.

The Department intends to use only data that are publicly available for this study. Accordingly, please do not submit information that you believe is or should be protected from public disclosure. DOE is responsible for the final determination concerning disclosure or nondisclosure of information submitted to DOE and for treating the information in accordance with the Department's Freedom of Information Act regulations (10 CFR 1004.11). All comments received by DOE regarding the congestion study will be posted on *http://energy.gov/oe/congestion-study* for public review.

FOR FURTHER INFORMATION CONTACT: David Meyer, DOE Office of Electricity, (202) 586–3876, *david.meyer@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: On August 23, 2018, DOE published ''Procedures for Conducting Electric Transmission Congestion Studies'' and requested written comment by October 9, 2018. (83 FR 42647). DOE is reopening the comment period for an additional 15 days. Written comments must now be received not later than November 1, 2018, and any comments received by November 1, 2018 will be deemed timely submitted.

DOE recognizes that some commenters may wish to draw upon or point to studies or analyses that are now in process and may not be completed. DOE requests that commenters submit such materials as they become available. All comments and information received will be posted on *http://www.regulations.gov* and at *http://energy.gov/oe/congestion-study* . DOE emphasizes that materials submitted after December 31, 2018, will not be included in the study.

Signed in Washington, DC, on October 9, 2018.

Catherine Jereza,

Deputy Assistant Secretary, Transmission Planning and Technical Assistance, Office of Electricity, U.S. Department of Energy.

[FR Doc. 2018–22648 Filed 10–16–18; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14633–001]

New England Hydropower Company, LLC; Notice of Application Tendered for Filing With the Commission and Soliciting Additional Study Requests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Exemption from Licensing.

b. *Project No.:* 14633–001.

c. *Date Filed:* October 1, 2018.

d. *Applicant:* New England Hydropower Company, LLC (NEHC).

e. *Name of Project:* Albion Dam Hydroelectric Project.

f. *Location:* On the Blackstone River, near the Towns of Cumberland and Lincoln, Providence County, Rhode Island. No federal or tribal lands would be occupied by project works or located within the project boundary.

g. *Filed Pursuant to:* Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2705, 2708 (2012), *amended by* the Hydropower Regulatory Efficiency Act of 2013, Public Law 113–23, 127 Stat. 493 (2013).

h. *Applicant Contact:* Mr. Michael C. Kerr, 100 Cummings Center, Suite 451C, Beverly, MA 01915; phone (978) 360–2547 or email at *Michael@nehydropower.com.*

i. *FERC Contact:* John Ramer, phone: (202) 502–8969 or email at *john.ramer@ferc.gov.*

j. *Cooperating Agencies:* Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item (l) below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See* 94 FERC 61,076 (2001).

k. Pursuant to section 4.32(b)(7) of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

l. *Deadline for filing additional study requests and requests for cooperating agency status:* December 10, 2018.

The Commission strongly encourages electronic filing. Please file additional study requests and requests for cooperating agency status using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P–14633–001.

m. This application is not ready for environmental analysis at this time.

n. *The proposed Albion Dam Hydroelectric Project would consist of:* (1) An approximately 266-foot-long existing concrete gravity dam with an ogee spillway; (2) an existing 33.6-acre impoundment with a normal storage capacity of 235 acre-feet at an operating elevation of approximately 87.0 feet North American Vertical Datum of 1988; (3) a new 51-foot-long, 45.75-foot-wide intake canal; (4) two new 14-foot-wide, 10.4-foot-high hydraulically-powered sluice gates, equipped with a 29-foot-wide, 12-foot-high steel trashrack with 9-inch clear-bar spacing; (5) a new 30-foot-long, 32.5-foot-wide, 11.0-foot-high concrete penstock; (6) a new 50-foot-long, 24-foot-wide, 18-foot-high concrete powerhouse containing two new 24.6-foot-long, 13.5-foot-diameter Archimedes Screw turbine-generator units, with a total installed capacity of 420 kilowatts, each contained in a new 15-foot-wide steel trough; (7) a new 50-foot-long concrete tailrace; (8) a new step-up transformer and 500-foot-long, above-ground transmission line connecting the project to the distribution system owned by Narragansett Electric Company; (9) a new access road; and (10) appurtenant facilities. The existing Albion Dam and appurtenant works are owned by the State of Rhode Island.

NEHC proposes to operate the project in a run-of-river mode with an estimated annual energy production of approximately 2,034 megawatt-hours.

o. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website at *http://www.ferc.gov* using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

p. *Procedural Schedule:* The application will be processed according to the following preliminary schedule. Revisions to the schedule will be made as appropriate (*e.g.,* if there are no deficiencies and/or scoping is waived, the schedule would be shortened).

Issue Deficiency/ AIR Letter.	January 2019.
Issue Notice of Acceptance/Ready for Environmental Analysis.	April 2019.
Issue Notice of the Availability of Environmental Assessment.	August 2019.

Dated: October 11, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–22609 Filed 10–16–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP18–102–000 and CP18–103–000]

Cheyenne Connector, LLC and Rockies Express Pipeline LLC; Notice of Schedule for Environmental Review of the Cheyenne Connector Pipeline and Cheyenne Hub Enhancement Projects

On March 5, 2018, Cheyenne Connector, LLC and Rockies Express Pipeline LLC (''applicants'') filed an application in Docket Nos. CP18–102–000 and CP18–103–000 requesting a Certificate of Public Convenience and Necessity pursuant to Section 7(c) of the Natural Gas Act to construct and operate certain natural gas pipeline facilities. The proposed projects are known as the Cheyenne Connector Pipeline and Cheyenne Hub Enhancement Projects (Projects), and would include new natural gas pipeline, metering, and compression facilities to transport about 600 million cubic feet per day.

On March 19, 2018, the Federal Energy Regulatory Commission (Commission or FERC) issued its Notice of Application for the Projects. Among other things, that notice alerted agencies issuing federal authorizations of the requirement to complete all necessary reviews and to reach a final decision on a request for a federal authorization within 90 days of the date of issuance of the Commission staff's Environmental Assessment (EA) for the Project. This instant notice identifies the FERC staff's planned schedule for the completion of the EA for the Project.

Schedule for Environmental Review

Issuance of EA December 18, 2018

90-day Federal Authorization Decision Deadline March 18, 2019

If a schedule change becomes necessary, additional notice will be provided so that the relevant agencies are kept informed of the Projects' progress.

Project Description

The Projects include approximately 70 miles of 36-inch-diameter pipeline, three associated mainline valves, and other ancillary facilities; five meter and regulating stations; one new approximately 32,100 horsepower Cheyenne Hub Booster Compressor Station; and enhancements to modify the existing Cheyenne Hub interconnect facilities in Weld County, Colorado.

Background

On May 3, 2018, the Commission issued a *Notice of Intent to Prepare an Environmental Assessment for the Proposed Cheyenne Connector Pipeline and Cheyenne Hub Enhancement Projects and Request for Comments on Environmental Issues* (NOI). The NOI was sent to affected landowners; federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; other interested parties; and local libraries and newspapers. In response to the NOI, the Commission received comments from: DCP Midstream, LP, Teamsters National Pipeline LMCP, Colorado Interstate Pipeline, L.L.C., Anadarko Energy Services Company, Cheyenne Connector, LLC, HLT Farms, LLLP, the Town of Kersey, two Native American tribes, and four individuals. The primary issues raised by the commentors are alternatives, Project construction affecting the Irons Lateral Ditch, cultural resources, public health and safety, land values, industrialization of agricultural land, and environmental justice. All substantive comments will be addressed in the EA.

Additional Information

In order to receive notification of the issuance of the EA and to keep track of all formal issuances and submittals in specific dockets, the Commission offers a free service called eSubscription. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Additional information about the Projects is available from the Commission's Office of External Affairs at (866) 208–FERC or on the FERC website (*www.ferc.gov*). Using the eLibrary link, select General Search from the eLibrary menu, enter the selected date range and Docket Number excluding the last three digits (*i.e.,* CP18–102 or CP18–103), and follow the instructions. For assistance with access to eLibrary, the helpline can be reached at (866) 208–3676, TTY (202) 502–8659, or at *FERCOnlineSupport@ferc.gov.* The eLibrary link on the FERC website also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

Dated: October 11, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–22608 Filed 10–16–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12790–007]

Andrew Peklo, III, Pomperaug Hydro LLC; Notice of Application for Transfer of License and Soliciting Comments, Motions To Intervene, and Protests

On September 24, 2018, Andrew Peklo, III (transferor) and Pomperaug Hydro LLC (transferee) filed an application for the transfer of license of the Pomperaug Hydro Project No. 12790. The project is located on the Pomperaug River in Litchfield County, Connecticut. The project does not occupy Federal lands.

The applicants seek Commission approval to transfer the license for the Pomperaug Hydro Project from the transferor to the transferee.

Applicants Contact: For transferor: Mr. Andrew Peklo, III, 29 Pomperaug Road, Woodbury, CT 06798, Phone: 203–263–4566, Email: *themill@charter.net.*

For transferee: Mr. Paul V. Nolan, Esq., 5515 17th Street North, Arlington, VA 22205–2722, Phone: (703) 534–5905, Email: *pvnpvndiver@gmail.com.*

FERC Contact: Patricia W. Gillis, (202) 502–8735, *patricia.gillis@ferc.gov.*

Deadline for filing comments, motions to intervene, and protests: 30 days from the date that the Commission issues this notice. The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P–12790–007.

Dated: October 11, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–22612 Filed 10–16–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP19–36–001.

Applicants: Dominion Energy Questar Pipeline, LLC.

Description: Tariff Amendment: Withdrawal of Filing to be effective 10/8/2018.

Filed Date: 10/9/18.

Accession Number: 20181009–5007.

Comments Due: 5 p.m. ET 10/22/18.

Docket Numbers: RP19–48–000.

Applicants: Tennessee Gas Pipeline Company, L.L.C.

Description: § 4(d) Rate Filing: Volume No. 2—Neg Rate Agmt—NextEra Energy Marketing, LLC SP324013 to be effective 11/1/2018.

Filed Date: 10/10/18.

Accession Number: 20181010–5042.

Comments Due: 5 p.m. ET 10/22/18.

Docket Numbers: RP19–49–000.

Applicants: Iroquois Gas Transmission System, L.P.

Description: § 4(d) Rate Filing: 101018 Negotiated Rates—Castleton Commodities Merchant Trading L.P. H–4010–89 to be effective 11/1/2018.

Filed Date: 10/10/18.

Accession Number: 20181010–5083.

Comments Due: 5 p.m. ET 10/22/18.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: October 11, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–22625 Filed 10–16–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL10–49–006]

Virginia Electric and Power Company; Notice of Filing

Take notice that on October 5, 2018, Virginia Electric and Power Company submitted tariff filing per: Refund Report to be effective N/A, pursuant to the order issued by the Federal Energy Regulatory Commission (Commission) on July 5, 2018.[1]

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on October 26, 2018.

Dated: October 10, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–22607 Filed 10–16–18; 8:45 am]

BILLING CODE 6717–01–P

[1] *Virginia Electric and Power Company,* 164 FERC ¶61,006 (2018).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Effectiveness of Exempt Wholesale Generator Status

Bluebell Solar, LLC EG18–103–000
Casa Mesa Wind, LLC EG18–104–000
Titan Solar, LLC EG18–105–000
Big Sky North, LLC EG18–106–000
Cypress Creek Fund 11 Tenant, LLC EG18–107–000
Brantley Farm Solar, LLC EG18–108–000
Blue Summit Interconnection, LLC EG18–109–000
Minco IV & V Interconnection, LLC EG18–110–000
OCI Lamesa Solar II LLC EG18–111–000
Green Power Hilltopper Wind, LLC EG18–112–000
Enel Green Power Rattlesnake Creek Wind Project, LLC EG18–113–000
Enel Green Power Diamond Vista Wind Project, LLC EG18–114–000
Live Oak Wind Project, LLC EG18–116–000

DATE: October 11, 2018.

Take notice that during the month of September 2018, the status of the above-captioned entities as Exempt Wholesale Generators became effective by operation of the Commission's regulations. 18 CFR 366.7(a) (2018).

Dated: October 11, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–22626 Filed 10–16–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR19–1–000]

Southwest Airlines Co., United Aviation Fuels Corporation v. Colonial Pipeline Company; Notice of Complaint

Take notice that on October 9, 2018, pursuant to Rules 206, 343.1(a), and 343.2 of the Federal Energy Regulatory Commission's (Commission) Rules and Regulations,[1] Southwest Airlines Co. and United Aviation Fuels Corporation (jointly, Complainants) filed a formal complaint against Colonial Pipeline Company (Respondent) challenging the justness and reasonableness of the Respondent's (1) cost-based transportation rates in FERC Tariff No. 99.39.0 and predecessor tariffs; (2) market-based rate authority and rates charged pursuant to that authority; and (3) charges relating to product loss allocation and transmix, all as more fully explained in the complaint.

Joint Complainants certify that copies of the complaint were served on the contacts for the Respondent as listed on the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the eLibrary link and is available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on November 8, 2018.

Dated: October 11, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–22628 Filed 10–16–18; 8:45 am]

BILLING CODE 6717–01–P

[1] 18 CFR 385.206, 18 CFR 343.1(a), and 343.2(c) (2018).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14634–001]

New England Hydropower Company, LLC; Notice of Application Tendered for Filing With the Commission and Soliciting Additional Study Requests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Exemption from Licensing.

b. *Project No.:* 14634–001.

c. *Date Filed:* October 1, 2018.

d. *Applicant:* New England Hydropower Company, LLC (NEHC).

e. *Name of Project:* Ashton Dam Hydroelectric Project.

f. *Location:* On the Blackstone River, near the Towns of Cumberland and Lincoln, Providence County, Rhode Island. No federal or tribal lands would be occupied by project works or located within the project boundary.

g. *Filed Pursuant to:* Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2705, 2708 (2012), *amended by* the Hydropower Regulatory Efficiency Act of 2013, Public Law 113–23, 127 Stat. 493 (2013).

h. *Applicant Contact:* Mr. Michael C. Kerr, 100 Cummings Center, Suite 451C, Beverly, MA 01915; phone (978) 360–2547 or email at *Michael@nehydropower.com*.

i. *FERC Contact:* John Ramer, phone: (202) 502–8969 or email at *john.ramer@ferc.gov*.

j. *Cooperating Agencies:* Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item (l) below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See* 94 FERC 61,076 (2001).

k. Pursuant to section 4.32(b)(7) of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

l. *Deadline for filing additional study requests and requests for cooperating agency status:* December 10, 2018.

The Commission strongly encourages electronic filing. Please file additional study requests and requests for cooperating agency status using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P–14634–001.

m. This application is not ready for environmental analysis at this time.

n. The proposed Ashton Dam Hydroelectric Project would consist of: (1) An existing concrete gravity dam that includes: (a) An approximately 193-foot-long western spillway section; (b) an approximately 57-foot-long middle spillway section with a crest gate proposed to be repaired; and (c) a proposed new 58-foot-long eastern section with three proposed 12-foot-wide, 8.8-foot-high steel sluice gates; (2) an existing 25-acre impoundment with a normal storage capacity of 200 acre-feet at an operating elevation of approximately 73.6 feet North American Vertical Datum of 1988; (3) a new 58-foot-wide intake canal; (4) a 39-foot-wide, 11-foot-high steel trashrack with 9-inch clear bar spacing; (5) a new 30-foot-long, 49-foot-wide, 14-foot-high concrete penstock; (6) a new 53-foot-long, 24-foot-wide, 18-foot-high concrete powerhouse containing three new 20.4-foot-long, 13.5-foot-diameter Archimedes Screw turbine-generator units, with a total installed capacity of 507 kilowatts, each contained in a new 15-foot-wide steel trough; (7) a new 120-foot-long tailrace; (8) a new step-up transformer and 800-foot-long above-ground transmission line connecting the project to the distribution system owned by Narragansett Electric Company; (9) a new access road; and (10) appurtenant facilities.

NEHC proposes to operate the project in a run-of-river mode with an estimated annual energy production of approximately 2,130 megawatt-hours.

o. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website at *http://www.ferc.gov* using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

p. Procedural schedule: The application will be processed according to the following preliminary schedule. Revisions to the schedule will be made as appropriate (*e.g.,* if there are no deficiencies and/or scoping is waived, the schedule would be shortened).

Issue Deficiency/AIR Letter.	January 2019
Issue Notice of Acceptance/Ready for Environmental Analysis.	April 2019
Issue Notice of the Availability of Environmental Assessment.	August 2019

Dated: October 11, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–22606 Filed 10–16–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER19–81–000]

Athens Energy, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Athens Energy, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard

to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is October 31, 2018.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: October 11, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–22627 Filed 10–16–18; 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: EC18–116–000.

Applicants: International Transmission Company.

Description: Response of International Transmission Company to September 19, 2018 Deficiency Letter.

Filed Date: 10/9/18.

Accession Number: 20181009–5340.

Comments Due: 5 p.m. ET 10/30/18.

Docket Numbers: EC19–8–000.

Applicants: American Electric Power Service Corporation, AEP Ohio Transmission Company, Inc.

Description: Joint Application for Authorization Under Section 203 of the Federal Power Act of American Electric Power Service Corporation, on behalf of affiliate AEP Ohio Transmission Company, Inc.

Filed Date: 10/10/18.

Accession Number: 20181010–5136.

Comments Due: 5 p.m. ET 10/31/18.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG19–10–000.

Applicants: North Rosamond Solar, LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status under EG19–10.

Filed Date: 10/11/18.

Accession Number: 20181011–5120.

Comments Due: 5 p.m. ET 11/1/18.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2414–009.

Applicants: Old Trail Wind Farm, LLC.

Description: Notice of Non-Material Change in Status of Old Trail Wind Farm, LLC.

Filed Date: 10/9/18.

Accession Number: 20181009–5337.

Comments Due: 5 p.m. ET 10/30/18.

Docket Numbers: ER10–2434–007; ER10–2436–007; ER10–2467–007; ER17–1666–003.

Applicants: Fenton Power Partners I, LLC.

Description: Supplement to June 27, 2018 Triennial Market Power Update for the Central Region of the EDFR Sellers.

Filed Date: 10/11/18.

Accession Number: 20181011–5107.

Comments Due: 5 p.m. ET 11/1/18.

Docket Numbers: ER10–3310–013; ER18–83 001.

Applicants: New Harquahala Generating Company, LLC, CXA La Paloma, LLC.

Description: Notice of Non-Material Change in Status of the Beal Entities.

Filed Date: 10/9/18.

Accession Number: 20181009–5339.

Comments Due: 5 p.m. ET 10/30/18.

Docket Numbers: ER17–1666–004; ER17–2258 002.

Applicants: Red Pine Wind Project, LLC, Rock Falls Wind Farm LLC.

Description: Notice of Non-Material Change in Status of Red Pine Wind Project, LLC, et al.

Filed Date: 10/10/18.

Accession Number: 20181010–5145.

Comments Due: 5 p.m. ET 10/31/18.

Docket Numbers: ER19–85–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original ISA SA No. 5124 and CSA SA No. 5125; Queue No. AB1–006 to be effective 9/10/2018.

Filed Date: 10/10/18.

Accession Number: 20181010–5120.

Comments Due: 5 p.m. ET 10/31/18.

Docket Numbers: ER19–86–000.

Applicants: Arizona Public Service Company.

Description: § 205(d) Rate Filing: Rate Schedule No. 217, Exhibit B Revisions to be effective 12/15/2018.

Filed Date: 10/11/18.

Accession Number: 20181011–5085.

Comments Due: 5 p.m. ET 11/1/18.

Docket Numbers: ER19–87–000.

Applicants: Midcontinent Independent System Operator, Inc., ALLETE, Inc.

Description: § 205(d) Rate Filing: 2018–10–11_SA 3185 MP–GRE T–T (Deer River) to be effective 10/12/2018.

Filed Date: 10/11/18.

Accession Number: 20181011–5099.

Comments Due: 5 p.m. ET 11/1/18.

Docket Numbers: ER19–88–000.

Applicants: Midcontinent Independent System Operator, Inc., ALLETE, Inc.

Description: § 205(d) Rate Filing: 2018–10–11_SA 3186 MP–GRE T–T (Zemple) to be effective 10/12/2018.

Filed Date: 10/11/18.

Accession Number: 20181011–5103.

Comments Due: 5 p.m. ET 11/1/18.

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: October 11, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–22624 Filed 10–16–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC18–21–000]

Commission Information Collection Activities (FERC–725G); Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collection, FERC–725G (Reliability Standards for the Bulk Power System: PRC Reliability Standards, OMB Control No. 1902–0252).

As part of this extension request, FERC will transfer the information collection requirements and burden of the FERC–725G1 (OMB Control No. 1902–0284) and FERC–725G4 (OMB Control No. 1902–0282) into FERC–725G. FERC–725G1 and FERC–725G4 information collections will eventually be discontinued.

DATES: Comments on the collection of information are due December 17, 2018.

ADDRESSES: You may submit comments (identified by Docket No. IC18–21–000) by either of the following methods:

- *eFiling at Commission's website: http://www.ferc.gov/docs-filing/efiling.asp.*
- *Mail/Hand Delivery/Courier:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp.* For user assistance contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* telephone at (202) 502–8663, and fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION:

Title: FERC–725G (Reliability Standards for the Bulk Power System: PRC Reliability Standards).[1]

OMB Control No.: 1902–0252.

Type of Request: Request a three-year extension of the FERC–725G information collection requirements (including the information collection requirements transferred from the FERC–725G1 and FERC–725G4) with no changes to the current reporting requirements.

Abstract: The information collected by the FERC–725G is required to implement the statutory provisions of section 215 of the Federal Power Act (FPA).[2] Section 215 of the FPA buttresses the Commission's efforts to strengthen the reliability of the interstate bulk power grid.

The FERC–725G information collection currently contains the reporting and recordkeeping requirements for the following Reliability Standards:

- PRC–002–2 (Disturbance Monitoring and Reporting Requirements)
- PRC–006–2 (Automatic Underfrequency Load Shedding)
- PRC–012–2 (Remedial Action Schemes)
- PRC–019–1 (Coordination of Generating Unit or Plant Capabilities, Voltage Regulating Controls, and Protection)
- PRC–023–4 (Transmission Relay Loadability)
- PRC–024–1 (Generator Frequency and Voltage Protective Relay Settings)
- PRC–025–1 (Generator Relay Loadability)
- PRC–026–1 (Relay Performance During Stable Power Swings)
- PRC–027–1 (Coordination of Protection Systems for Performance During Faults)

Additionally, the information collection requirements of the following Reliability Standards will be incorporated into FERC–725G:

- PRC–004–5(i)[3] (Protection System Misoperation Identification and Correction) and
- PRC–010–2[4] (Undervoltage Load Shedding)

Each of these Reliability Standards has three components that impose burden upon affected industry:

- Requirements (*e.g.,* denoted in each Reliability Standard as R1, R2. . .)
- Measures (*e.g.,* denoted in each Reliability Standard as M1, M2. . .)
- Evidence Retention

These three components can be reviewed for the Reliability Standards in NERC petitions in FERC's eLibrary system (*http://www.ferc.gov/docs-filing/elibrary.asp*) or on NERC's own website (*www.nerc.com*).

Type of Respondents: Transmission owners, generator owners, distribution providers, planning coordinators and transmission planners.

Estimate of Annual Burden:[5] The Commission estimates the annual public reporting burden and cost[6] for the information collection as:

[1] The current information collection requirements of the FERC–725G1 (OMB Control No. 1902–0284) and FERC–725G4 (OMB Control No. 1902–0282) are being transferred into the FERC–725G.

[2] 16 U.S.C. 824o.

[3] This standard is currently contained in the FERC–725G1 information collection. FERC–725G1 will eventually be discontinued.

[4] This standard is currently contained in the FERC–725G4 information collection. FERC–725G4 will eventually be discontinued.

[5] Burden is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, reference 5 Code of Federal Regulations 1320.3.

[6] The hourly cost (for salary plus benefits) uses the figures from the Bureau of Labor Statistics, May 2017. Unless otherwise specified, this figure includes salary (*https://www.bls.gov/oes/current/naics2_22.htm*) and benefits *http://www.bls.gov/news.release/ecec.nr0.htm*) for an Electrical Engineer (Occupation Code: 17–2071, $66.90/hour) and an Information and Record Clerk (Occupation Code: 43–4199, $39.68/hour). All of the reporting requirements use the electrical engineer rate for cost calculation. Similarly, all of the record-keeping requirements use the information and record clerk rate for cost calculation.

FERC–725G—MANDATORY RELIABILITY STANDARDS: PRC RELIABILITY STANDARDS

Reliability standards	Number of respondents[7]	Annual number of responses per respondent	Total number of responses	Average burden & cost ($) (rounded) per response	Total annual burden hours & total annual cost ($) (rounded)	Cost per respondent (rounded) ($)
	(1)	(2)	(1)*(2)=(3)	(4)[8]	(3)*(4)=(5)	(5)÷(1)
Reporting Requirements						
PRC–023–4	741 (TO, GO, DP, PC)	1	741	42.445 hrs.; $2,840.	31,452 hrs.; $2,104,139.	$2,840
PRC–002–2	521 (TO, GO)	1	521	73.729 hrs.; $4,932.	38,413 hrs.; $2,569,830.	4,932
PRC–006–2	80 (TO, DP)	1	80	47 hrs.; $3,144	3,760 hrs.; $251,544.	3,144
PRC–012–2	3,291 (RC, PC, TO, GO, DP)	1	3,291	23.746 hrs.; $1,589.	78,147 hrs.; $5,228,034.	1,589
PRC–019–1	738 (GO, TO)	1	738	17 hrs.; $1,137	12,546 hrs.; $839,327.	1,137
PRC–024–1	738 (GO)	1	738	17 hrs.; $1,137	12,546 hrs.; $839,327.	1,137
PRC–025–1	1,019 (GO, TO, DP)	1	1,019	6.622 hrs.; $443	6,748 hrs.; $451,441.	443
PRC–026–1	1,092 (GO, PC, TO)	1	1,092	7.868 hrs.; $1,092.	8,592 hrs.; $574,805.	1.092
PRC–027–1	1,727 (TO, GO, DP)	1	1,727	19.757 hrs.; $1,322.	34,120 hrs.; $2,282,628.	1,322
PRC–004–5(i)[9] (formerly in FERC–725G1).	648 (TO, GO, DP)	1	648	8 hrs.[10]; $535	5,184 hrs.; $346,810.	535
PRC–010–2 (formerly in FERC–725G4).	26 (PC, TP, DP)	1	26	36 hrs.; $2,408	936 hrs.; $62,618	2,408
Record-Keeping (Evidence Retention) Requirements						
PRC–023–4	741 (TO, GO, DP, PC)	1	741	513.858 hrs.; $20,390.	380,769 hrs.; $15,108,914.	20,390
PRC–002–2	521 (TO, GO)	1	521	31.599 hrs.; $1,254.	16,463 hrs.; $653,252.	1,254
PRC–006–2	80 (TO, DP)	1	80	5 hrs.; $198	400 hrs.; $15,872	198
PRC–012–2	3,291 (RC, PC, TO, GO, DP)	1	3,291	11.754 hrs.; $466.	38,684 hrs.; $1,543,981.	466
PRC–019–2	738 (GO, TO)	1	738	0 hrs.; $0	0 hrs.; $0	0
PRC–024–1	738 (GO)	1	738	0 hrs.; $0	0 hrs.; $0	0
PRC–025–1	1,019 (GO, TO, DP)	1	1,019	2.044 hrs.; $81	2,083 hrs.; $82,653	81
PRC–026–1	1,092 (GO, PC, TO)	1	1,092	12 hrs.; $476	13,104 hrs.; $519,967.	476
PRC–027–1	1,727 (TO, GO, DP)	1	1,727	15.854 hrs.; $629.	27,380 hrs.; $1,086,438.	629
PRC–004–5(i) (formerly in FERC–725G1).	648 (TO, GO, DP)	1	648	12 hrs.; $476	7,776 hrs.; $308,552.	476
PRC–010–2 (formerly in FERC–725G4).	26 (PC, TP, DP)	1	26	12 hrs.; $476	312 hrs.; $12,380	476
Subtotal for Reporting Requirements.					232,444 hrs.; $15,550,504.	
Subtotal for Record-keeping Requirements.					486,971 hrs.; $19,323,009.	
Total					719,415 hrs.; $34,873,513.	

Comments: Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: October 12, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–22611 Filed 10–16–18; 8:45 am]

BILLING CODE 6717–01–P

[7] GO = generator owner, TO = transmission owner, DP = distribution planner; PC = planning coordinator and TP = transmission planners, RC = Reliability Coordinator.

[8] The average costs per response are rounded to the nearest dollar.

[9] Reliability Standard PRC–004–5(i) is an updated standard that neither added nor removed reporting and record keeping requirements (and corresponding burden) as compared to Reliability Standards PRC–004–3 and PRC–004–4.

[10] The reporting requirements for Reliability Standards PRC–004–5(i) are reduced by 2 hours/response (annually) due to completion of a one-time requirement imposed by the Order in Docket No. RD14–14–000).

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2018–0014; FRL–9983–91]

Receipt of Requests To Voluntarily Cancel Certain Pesticide Registrations and Amend Registrations To Terminate Certain Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is issuing a notice of receipt of requests by the registrants to voluntarily cancel certain pesticide product registrations and to amend certain product registrations to terminate uses. EPA intends to grant these requests at the close of the comment period for this announcement unless the Agency receives substantive comments within the comment period that would merit its further review of the requests, or unless the registrants withdraw their requests. If these requests are granted, any sale, distribution, or use of products listed in this notice will be permitted after the registrations have been cancelled and uses terminated only if such sale, distribution, or use is consistent with the terms as described in the final order.

DATES: Comments must be received on or before November 16, 2018.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2018–0014, 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 Confidential Business Information (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.

Submit written withdrawal request by mail to: Information Technology and Resources Management Division (7502P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001. ATTN: Christopher Green.

- *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.*

FOR FURTHER INFORMATION CONTACT: Christopher Green, Information Technology and Resources Management Division (7502P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (703) 347–0367; email address: *green.christopher@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

II. What action is the Agency taking?

This notice announces receipt by EPA of requests from pesticide registrants to cancel certain pesticide products and amend product registrations to terminate certain uses registered under FIFRA section 3 (7 U.S.C. 136a) or 24(c) (7 U.S.C. 136v(c)). The affected products and the registrants making the requests are identified in Tables 1, 2 and 3 of this unit.

Unless a request is withdrawn by the registrant or if the Agency determines that there are substantive comments that warrant further review of this request, EPA intends to issue an order in the **Federal Register** canceling and amending the affected registrations.

TABLE 1—PRODUCT REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration No.	Company No.	Product name	Active ingredients
100–974	100	Platinum Ridomil Gold	Thiamethoxam & Metalaxyl-M.
100–1149	100	CGA–329351 138 ES	Metalaxyl-M.
100–1184	100	Cruiser XL Insecticide and Fungicide Prepack	Metalaxyl-M; Fludioxonil & Thiamethoxam.
100–1208	100	Cruiser Extreme	Azoxystrobin; Metalaxyl-M; Fludioxonil & Thiamethoxam.
100–1284	100	Dynasty Extreme	Myclobutanil; Metalaxyl-M; Fludioxonil & Azoxystrobin.
100–1335	100	Difenoconazole/Mefenoxam FS	Difenoconazole & Metalaxyl-M.
100–1413	100	Ariel	Metalaxyl-M.
352–754	352	Dupont Imazapyr 75XP Herbicide	Imazapyr.
432–1578	432	Lineage Clearstand	Metsulfuron & Imazapyr.
499–373	499	Whitmire PT 289 Orthense	Acephate.
1381–226	1381	Imidacloprid 60% WSP ORN Insecticide	Imidacloprid.
2217–759	2217	Embark 2–S Plant Growth Regulator	Mefluidide, diethanolamine salt.
2217–766	2217	Embark 2–L Plant Growth Regulator	N-(2,4-Dimethyl-5-(((trifluoromethyl)sulfonyl)amino) phenyl)acetamide, potassium salt.
2217–767	2217	Mefluidide 2–S Concentrate	Mefluidide, diethanolamine salt.
2217–768	2217	Embark E–Z–TU–USE Plant Grown Regulator	Mefluidide, diethanolamine salt.

TABLE 1—PRODUCT REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration No.	Company No.	Product name	Active ingredients
2217–802	2217	EH 1135 PGR	Imazethapyr, ammonium salt; Imazapyr & Mefluidide, diethanolamine salt.
55146–81	55146	Flouronil Fungicide	Chlorothalonil & Metalaxyl-M.
65331–6	65331	Amitraz Technical	Amitraz.
66222–135	66222	Thidiazuron 50 WSB	Thidiazuron.
66330–24	66330	Captan 4 Flowable	Captan.
66330–26	66330	Captan 50 WP	Captan.
66330–27	66330	Captan Garden Spray	Captan.
66330–209	66330	Captan 80W	Captan.
66330–235	66330	Captan 4 Flowable	Captan.
66330–238	66330	Captan 4 Flowable Seed Protectant	Captan.
66330–239	66330	Captec 4L Captan Flowable Fungicide	Captan.
66330–242	66330	Mepiquat Chloride Liquid Concentrate	Mepiquat chloride.
66330–243	66330	Mepichlor Pill	Mepiquat chloride.
66330–280	66330	Mepplus Concentrate	Mepiquat chloride & Bacillus cereus strain BP01.
66330–285	66330	Mepplus Pill	Mepiquat chloride & Bacillus cereus strain BP01.
66330–346	66330	Pix Concentrate Plant Regulator	Mepiquat chloride.
66330–348	66330	MC–6	Mepiquat chloride.
66330–393	66330	ARY 0494–006	Bacillus cereus strain BP01 & Mepiquat chloride.
CO–080004	400	Enhance	Captan & Carboxin.
CO–090006	5481	Orthene Turf, Tree & Ornamental WSP	Acephate.
FL–050004	70506	Surflan as Specialty Herbicide	Oryzalin.
ME–160002	71512	Omega 500F	Fluazinam.
OR–040033	10163	Onager 1E	Hexythiazox.
OR–120018	59639	Valor Herbicide	Flumioxazin.
WA–040021	228	Riverdale Aquaneat Aquatic Herbicide	Glyphosate-isopropylammonium.
WI–130001	100	Dual Magnum Herbicide	S-Metolachlor.
WY–070002	56228	DRC–1339 Concentrate Staging Label	Starlicide.

TABLE 2—PRODUCT REGISTRATIONS WITH PENDING REQUESTS FOR AMENDMENT

Registration No.	Company No.	Product name	Active ingredient	Uses to be terminated
11678–55	11678	Magnate Technical	Imazalil	Seed treatment uses.
43813–4	43813	Fungaflor 75 SP	Imazalil sulphate	Seed treatment uses.
66222–1	66222	Captan 50–WP	Captan	Turf.
66330–209	66330	Captan 80W	Captan	Turf.
66330–234	66330	Captan 50 Wettable Powder	Captan	Turf.
66330–239	66330	Captec 4L Captan Flowable Fungicide.	Captan	Turf.

Table 3 of this unit includes the names and addresses of record for all registrants of the products listed in Table 1 and Table 2 of this unit, in sequence by EPA company number. This number corresponds to the first part of the EPA registration numbers of the products listed in Table 1 and Table 2 of this unit.

TABLE 3—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION AND/OR AMENDMENTS

EPA Company No.	Company name and address
100	Syngenta Crop Protection, LLC, 410 Swing Road, P.O. Box 18300, Greensboro, NC 27419–8300.
228	Nufarm Americas, Inc., 4020 Aerial Center Pkwy., Ste. 101, Morrisville, NC 27560.
352	E.I. Du Pont De Nemours and Company, Attn: Manager, US Registration, DuPont Crop Protection, Chestnut Run Plaza (CRP 720/2E5), 974 Centre Rd., Wilmington, DE 19805.
400	MacDermid Agricultural Solutions, Inc., C/O Arysta LifeScience North America, LLC, 15401 Weston Parkway, Suite 150, Cary, NC 27513.
432	Bayer Environmental Science, A Division of Bayer CropScience, LP, 2 T. W Alexander Drive, Research Triangle Park, NC 27709.
499	BASF Corporation, 26 Davis Drive, P.O. Box 13528, Research Triangle Park, NC 27709–3528.
1381	Winfield Solutions, LLC, P.O. Box 64589, St. Paul, MN 55164–0589.
2217	PBI/Gordon Corp., 1217 West 12th Street, P.O. Box 014090, Kansas City, MO 64101–0090.
5481	AMVAC Chemical Corporation, 4695 MacArthur Court, Suite 1200, Newport Beach, CA 92660–1706.
10163	Gowan Company, P.O. Box 5569, Yuma, AZ 85366.
11678	ADAMA Makhteshim LTD., Agent Name: Makhteshim-Agan of North America, Inc., D/B/A ADAMA, 3120 Highwoods Blvd., Suite 100, Raleigh, NC 27604.
43813	Janssen PMP, A Division of Janssen Pharmaceutica NV, 1125 Trenton-Harbourton Rd., Titusville, NJ 08560–0200.
55146	Nufarm Americas, Inc., AGT Division, 4020 Aerial Center Pkwy., Suite 101, Morrisville, NC 27560.
56228	U.S. Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 149, Riverdale, MD 20737.

TABLE 3—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION AND/OR AMENDMENTS—Continued

EPA Company No.	Company name and address
59639	Valent U.S.A. LLC, 1600 Riviera Avenue, Suite 200, Walnut Creek, CA 94596–8025.
65331	Merial, Inc., 3239 Satellite Blvd., Duluth, GA 30096.
66222	Makhteshim Agan of North America, Inc., D/B/A Adama, 3120 Highwoods Blvd., Suite 100, Raleigh, NC 27604.
66330	Arysta LifeScience North America, LLC, 15401 Weston Parkway, Suite 150, Cary, NC 27513.
70506	United Phosphorus, Inc., 630 Freedom Business Center, Suite 402, King of Prussia, PA 19406.
71512	ISK Biosciences Corporation, 7470 Auburn Road, Suite A, Concord, OH 44077.

III. What is the agency's authority for taking this action?

Section 6(f)(1) of FIFRA (7 U.S.C. 136d(f)(1)) provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled or amended to terminate one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**.

Section 6(f)(1)(B) of FIFRA (7 U.S.C. 136d(f)(1)(B)) requires that before acting on a request for voluntary cancellation, EPA must provide a 30-day public comment period on the request for voluntary cancellation or use termination. In addition, FIFRA section 6(f)(1)(C) (7 U.S.C. 136d(f)(1)(C)) requires that EPA provide a 180-day comment period on a request for voluntary cancellation or termination of any minor agricultural use before granting the request, unless:

1. The registrants request a waiver of the comment period, or

2. The EPA Administrator determines that continued use of the pesticide would pose an unreasonable adverse effect on the environment.

The registrants listed in Table 3 of Unit II have requested that EPA waive the 180-day comment period. Accordingly, EPA will provide a 30-day comment period on the proposed requests.

IV. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for product cancellation or use termination should submit the withdrawal in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. If the products have been subject to a previous cancellation or termination action, the effective date of cancellation or termination and all other provisions of any earlier cancellation or termination action are controlling.

V. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products that are currently in the United States and that were packaged, labeled, and released for shipment prior to the effective date of the cancellation action.

In any order issued in response to these requests for cancellation of product registrations and for amendments to terminate uses, EPA proposes to include the following provisions for the treatment of any existing stocks of the products listed in Tables 1 and 2 of Unit II.

A. For Product 432–1578

The registrant has requested to the Agency via letter dated November 14, 2017 to sell existing stocks for an 18-month period, until June 2019, for product 432–1578.

B. For Products 2217–759, 2217–766, 2217–767, 2217–768 & 2217–802

The registrant has requested to the Agency via letter, to sell existing stocks for a 2-year period for products 2217–759, 2217–766, 2217–767, 2217–768 & 2217–802.

C. For Products 66330–24, 66330–26, 66330–27, 66330–209, 66330–235, 66330–238, & 66330–239

The registrant has requested to the Agency via letter, to sell existing stocks for an 18-month period for products 66330–24, 66330–26, 66330–27, 66330–209, 66330–235, 66330–238, & 66330–239.

For all other voluntary product cancellations, identified in Table 1 of Unit II, registrants will be permitted to sell and distribute existing stocks of voluntarily canceled products for 1 year after the effective date of the cancellation, which will be the date of publication of the cancellation order in the **Federal Register**. Thereafter, registrants will be prohibited from selling or distributing the products identified in Table 1 of Unit II, except for export consistent with FIFRA section 17 (7 U.S.C. 136o) or for proper disposal.

Once EPA has approved product labels reflecting the requested amendments to terminate uses, identified in Table 2 of Unit II, registrants will be permitted to sell or distribute products under the previously approved labeling for a period of 18 months after the date of **Federal Register** publication of the cancellation order, unless other restrictions have been imposed. Thereafter, registrants will be prohibited from selling or distributing the products whose labels include the terminated uses identified in Table 2 of Unit II, except for export consistent with FIFRA section 17 or for proper disposal.

Persons other than the registrant may sell, distribute, or use existing stocks of canceled products and products whose labels include the terminated uses until supplies are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the canceled products and terminated uses.

Authority: 7 U.S.C. 136 *et seq.*

Dated: September 19, 2018.

Delores Barber,

Director, Information Technology and Resources Management Division, Office of Pesticide Programs.

[FR Doc. 2018–22658 Filed 10–16–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL_9985–54–OLEM]

The Hazardous Waste Electronic Manifest System Advisory Board: Request for Nominations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Request for nominations.

SUMMARY: The U.S. Environmental Protection Agency (EPA) invites nominations of qualified candidates for possible consideration for a three-year appointment on the Hazardous Waste Electronic Manifest System Advisory Board (the ''Board'').

Pursuant to the Hazardous Waste Electronic Manifest Establishment Act (the ''e-Manifest Act'' or the ''Act''), EPA has established the Board to provide practical and independent

advice, consultation, and recommendations to the EPA Administrator on the activities, functions, policies and regulations associated with the Hazardous Waste Electronic Manifest (e-Manifest) System. In accordance, with the e-Manifest Act, the EPA Administrator or designee will serve as Chair of the Board. This notice solicits nominations for possible consideration for candidates to potentially serve in the following positions on the Board: An expert in information technology (IT); An industry representative member with experience in using or representing users of the manifest system; and a state representative member responsible for processing manifests.

DATES: Nominations should be received on or before November 16, 2018.

ADDRESSES: Nominations should be submitted via email to Fred Jenkins, the Designated Federal Officer (DFO) of the e-Manifest Advisory at *jenkins.fred@epa.gov,* and identified with ''BOARD NOMINATION'' in the subject line of the email.

FOR FURTHER INFORMATION CONTACT: Fred Jenkins, Designated Federal Officer (DFO), U.S. Environmental Protection Agency, Office of Resource Conservation and Recovery, (MC: 5303P), 1200 Pennsylvania Avenue NW, Washington, DC 20460, Phone: 703–308–7049; or by email: *jenkins.fred@epa.gov.*

SUPPLEMENTARY INFORMATION: On June 30, 2018, EPA established a national system for tracking hazardous waste shipments electronically. This system, known as ''e-Manifest,'' is modernizing the nation's cradle-to-grave hazardous waste tracking process while saving valuable time, resources, and dollars for industry and states.

EPA established the e-Manifest system according to the Hazardous Waste Electronic Manifest Establishment Act, enacted into law on October 5, 2012. The ''e-Manifest Act'' authorizes the EPA to implement a national electronic manifest system and requires that the costs of developing and operating the new e-Manifest system be recovered from user fees charged to those who use hazardous waste manifests to track off-site shipments of their wastes.

This system enables users of the uniform hazardous waste manifest forms (EPA Form 8700–22 and Continuation Sheet 8700–22A) to have the option to more efficiently track their hazardous waste shipments electronically, in lieu of the paper manifest, from the point of generation, during transportation, and to the point of receipt by an off-site facility that is permitted to treat, store, or dispose of the hazardous waste. Electronic manifests obtained from the national system will augment or replace the paper forms that are currently used for this purpose, and that result in substantial paperwork costs and other inefficiencies. Congress intended that EPA develop a system that, among other things, meets the needs of the user community and decreases the administrative burden associated with the traditional paper-based manifest system on the user community. The EPA estimates e-Manifest will ultimately reduce the burden associated with preparing shipping manifests between 300,000 and 700,000 hours, saving state and industry users, on average, an annualized $65 million per year over the first six years of system operation, and more than $90 million once electronic manifests have been widely adopted. The system also serves as a national reporting hub and database for all manifests and shipment data. To ensure that these goals are met, the Act directs EPA to establish a Board to assess the effectiveness of the electronic manifest system and make recommendations to the Administrator for improving the system.

In addition, the e-Manifest Act directs EPA to develop a system that attracts sufficient user participation and service revenues to ensure the viability of the system. As a result, the Act provides EPA broad discretion to establish reasonable user fees, as the Administrator determines are necessary, to pay costs incurred in developing, operating, maintaining, and upgrading the system, including any costs incurred in collecting and processing data from any paper manifest submitted to the system. In January 2018, EPA published its final methodology for setting user fees based on the costs of processing manifests and, in June 2018, the Agency released its user fees effective for the period between June 30, 2018, and September 30, 2019.

e-Manifest aligns with the Agency's E-Enterprise business strategy. E-Enterprise for the Environment is a transformative 21st century strategy—jointly governed by states and EPA—for modernizing government agencies' delivery of environmental protection. Under this strategy, the Agency will streamline its business processes and systems to reduce reporting burden on states and regulated facilities, and improve the effectiveness and efficiency of regulatory programs for EPA, states, and tribes.

EPA has established the Board in accordance with the provisions of the e-Manifest Act and the Federal Advisory Committee Act (FACA), 5 U.S.C. App.2. The Board is in the public interest and supports EPA in performing its duties and responsibilities. Pursuant to the e-Manifest Act the Board is comprised of nine members, of which one member is the Administrator (or a designee), who serves as Chairperson of the Board, and eight members are individuals appointed by the EPA Administrator:

- At least two of whom have expertise in information technology (IT);
- At least three of whom have experience in using, or represent users of, the manifest system to track the transportation of hazardous waste under federal and state manifest programs; and;
- At least three state representatives responsible for processing those manifests.

The Board will meet publicly at least annually to provide recommendations on matters related to the operational activities, functions, policies, and/or regulations of the EPA under the e-Manifest Act.

Member Nominations: Pursuant to the e-Manifest Act, the Board assists the Agency in evaluating the effectiveness of the e-Manifest IT system and associated user fees; identifying key issues associated with the system, including the need (and timing) for user fee adjustments; recommending system enhancements; and providing independent advice on matters and policies related to the e-Manifest program. The e-Manifest Board provides recommendations on matters related to the operational activities, functions, policies, and regulations of the EPA under the e-Manifest Act, including proposing actions to encourage the use of the electronic (paperless) system, and actions related to the E-Enterprise strategy that intersect with e-Manifest. These intersections may include issues such as business-to-business communications, performance standards for mobile devices, and Cross Media Electronic Reporting Rule (CROMERR) compliant e-signatures. Any interested person and/or organization may nominate qualified individuals for membership. EPA values and welcomes diversity. To obtain nominations of diverse candidates, the Agency encourages nominations of women and men of all racial and ethnic groups. All nominations will be considered; however, applicants need to be aware of the representation from specific sectors required by the e-Manifest Act. Further, state and industry nominees should have a comprehensive knowledge of hazardous

waste generation, transportation, treatment, storage, and disposal under RCRA Subtitle C at the federal, state, and local levels.

Nominees who represent states should have comprehensive knowledge of state programs that used manifest data prior to the initiation of the federal electronic manifest, such as in-state programs and/or in-state tracking systems/databases. Nominees who represent industry should have strong knowledge of existing industry systems/devices/approaches and business operations to provide valuable input on e-Manifest integration into current industry data systems. IT nominees should have core competencies and experience in large-scale systems and application development and integration, deployment and maintenance, user help desk and support, and expertise relevant to support the complexity of an electronic manifest system. Examples of this expertise may include but are not limited to: Expertise with web-based and mobile technologies, particularly that support large-scale operations for geographically diverse users; expertise in IT security, including perspective on federal IT security requirements; expertise in electronic signature and user management approaches; expertise with scalable hosting solutions such as cloud-based hosting; and expertise in user experience. Existing knowledge of, or willingness to gain an understanding of, EPA shared services and enterprise architecture is a plus. Another plus for any nominee is experience in setting and/or managing fee-based systems in general.

Additional criteria used to evaluate nominees will include:

- Excellent interpersonal, oral and written communication skills;
- Demonstrated experience developing group recommendations;
- Willingness to commit time to the Board and demonstrated ability to work constructively on committees;
- Absence of financial conflicts of interest;
- Impartiality (including the appearance of a lack of impartiality); and
- Background and experiences that would help contribute to the diversity of perspectives on the Board, *e.g.,* geographic, economic, social, cultural, educational backgrounds, professional affiliations and other considerations.

Nominations must include a resume, which provides the nominee's background, experience and educational qualifications, as well as a brief statement (one page or less) describing the nominee's interest in serving on the Board and addressing the other criteria previously described. Nominees are encouraged to provide any additional information that they believe would be useful for consideration, such as: availability to participate as a member of the Board; how the nominee's background, skills and experience would contribute to the diversity of the Board; and any concerns the nominee has regarding membership. Nominees should provide their name, occupation, position, current business address, email, and telephone number in the application.

Moreover, in accordance with the EPA Administrator's Directive issued on October 31, 2017, please describe any involvement you have with the Agency through EPA grant funded projects which you (nominee/applicant) are currently serving as the principal investigator (PI) or co-investigator (COI). The Agency recognizes that different variables may factor into this criterion and as a result will evaluate each situation on a case by case basis.

In addition to a statement regarding grant funded projects, the nominee/applicant should include previous employment and/or current contracting sources with the Agency. To help the Agency in evaluating the effectiveness of its outreach efforts, also tell us how you learned of this opportunity in your statement of interest (cover letter).

Interested candidates may self-nominate. The Agency will acknowledge receipt of nominations. Persons selected for membership will receive compensation for travel and a nominal daily compensation (if appropriate) while attending meetings. Additionally, candidates selected to serve as Information Technology (IT) ''Expert'' Members will be designated as Special Government Employees (SGEs) or consultants. Candidates designated as SGEs will be required to fill out the ''Confidential Financial Disclosure Form for Environmental Protection Agency Special Government Employees'' (EPA Form 3310–48). This confidential form provides information to EPA ethics officials to determine whether there is a conflict between the SGE's public duties and their private interests, including an appearance of a loss of impartiality as defined by federal laws and regulations. One example of a potential conflict of interest may be for IT professional(s) serving in an organization that is awarded any related e-Manifest system development contract(s).

Dated: October 4, 2018.

Barnes Johnson,

Director, Office of Resource Conservation and Recovery, Office of Land and Emergency Management.

[FR Doc. 2018–22651 Filed 10–16–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2018–0651; FRL–9983–90]

Receipt of Requests To Voluntarily Cancel Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is issuing a notice of receipt of requests by registrants to voluntarily cancel certain pesticide registrations. EPA intends to grant these requests at the close of the comment period for this announcement unless the Agency receives substantive comments within the comment period that would merit its further review of the requests, or unless the registrants withdraw its requests. If these requests are granted, any sale, distribution, or use of products listed in this notice will be permitted after the registrations have been cancelled only if such sale, distribution, or use is consistent with the terms as described in the final order.

DATES: Comments must be received on or before April 15, 2019.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2018–0651, 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 Confidential Business Information (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.

Submit written withdrawal request by mail to: Information Technology and Resources Management Division (7502P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001. ATTN: Christopher Green.

- *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.*

FOR FURTHER INFORMATION CONTACT: Christopher Green, Information Technology and Resources Management Division (7502P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (703) 347–0367; email address: *green.christopher@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

II. What action is the Agency taking?

This notice announces receipt by EPA of requests from registrants to cancel certain pesticide products registered under FIFRA section 3 (7 U.S.C. 136a) or 24(c) (7 U.S.C. 136v(c)). The affected products and the registrants making the requests are identified in Tables 1–2 of this unit.

Unless a request is withdrawn by the registrant or if the Agency determines that there are substantive comments that warrant further review of this request, EPA intends to issue an order in the **Federal Register** canceling the affected registrations.

TABLE 1—PRODUCT REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration No.	Company No.	Product name	Active ingredients
5481–602	5481	Squadron Herbicide	Pendimethalin & 3-Quinolinecarboxylic acid, 2-(4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1H-imidazol-2-yl)-, monoammonium salt.
5481–605	5481	Steel Herbicide	Imazethapyr; Pendimethalin & Imazaquin.

Table 2 of this unit includes the names and addresses of record for all registrants of the products in Table 1 of this unit, in sequence by EPA company number. This number corresponds to the first part of the EPA registration numbers of the products listed in Table 1 of this unit.

TABLE 2—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION

EPA Company No.	Company name and address
5481	AMVAC Chemical Corporation, 4695 MacArthur Court, Suite 1200, Newport Beach, CA 92660–1706.

III. What is the Agency's authority for taking this action?

Section 6(f)(1) of FIFRA (7 U.S.C. 136d(f)(1)) provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled or amended to terminate one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**.

Section 6(f)(1)(B) of FIFRA (7 U.S.C. 136d(f)(1)(B)) requires that before acting on a request for voluntary cancellation, EPA must provide a 30-day public comment period on the request for voluntary cancellation or use termination. In addition, FIFRA section 6(f)(1)(C) (7 U.S.C. 136d(f)(1)(C)) requires that EPA provide a 180-day comment period on a request for voluntary cancellation or termination of any minor agricultural use before granting the request, unless:

1. The registrants request a waiver of the comment period, or

2. The EPA Administrator determines that continued use of the pesticide would pose an unreasonable adverse effect on the environment.

The registrants listed in Table 2 of Unit II have not requested that EPA waive the 180-day comment period. Accordingly, EPA will provide a 180-day comment period on the proposed requests.

IV. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for product cancellation should submit the withdrawal in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. If the products have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling.

V. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products that are currently in the United States and that were packaged, labeled, and released for shipment prior to the effective date of the cancellation action.

In any order issued in response to these requests for cancellation of product registrations EPA proposes to include the following provisions for the treatment of any existing stocks of the products listed in Table 1 of Unit II.

For voluntary product cancellations, registrants will be permitted to sell and distribute existing stocks of voluntarily canceled products for 1 year after the

effective date of the cancellation, which will be the date of publication of the cancellation order in the **Federal Register**. Thereafter, registrants will be prohibited from selling or distributing the products identified in Table 1 of Unit II., except for export consistent with FIFRA section 17 (7 U.S.C. 136o) or for proper disposal.

Persons other than the registrant may sell, distribute, or use existing stocks of canceled products until supplies are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the canceled products.

Authority: 7 U.S.C. 136 *et seq.*

Dated: September 19, 2018.

Delores Barber,

Director, Information Technology and Resources Management Division, Office of Pesticide Programs.

[FR Doc. 2018–22657 Filed 10–16–18; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[CG Docket No. 18–272; DA 18–941]

Termination of Dormant Proceedings

AGENCY: Federal Communications Commission.

ACTION: Notice of availability; request for comments.

SUMMARY: In this document, the Consumer and Governmental Affairs Bureau (the Bureau) announces the availability of the FCC Public Notice seeking comment on whether certain docketed Commission proceedings should be terminated as dormant.

DATES: Comments are due on or before November 16, 2018, and reply comments are due on or before December 3, 2018.

FOR FURTHER INFORMATION CONTACT: Daniel Margolis, Consumer and Governmental Affairs Bureau at (202) 418–1377 or by email at *Daniel.Margolis@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document, CG Docket No. 18–272; DA 18–941, released on September 12, 2018. The full text of this document, including instructions on how to file comments; the spreadsheet associated with document DA 18–941 listing the proceedings proposed for termination; and copies of any subsequently filed documents in this matter will be available for public inspection and copying via ECFS at: *https://www.fcc.gov/ecfs/* and during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street SW, Room CY–A257, Washington, DC 20554. Document DA 18–941 and the spreadsheet associated with document DA 18–941 listing the proceedings proposed for termination can also be downloaded in Word or Portable Document Format (PDF) at: *https://www.fcc.gov/document/seventh-dormant-dockets-termination-public-notice.* To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice) or (202) 418–0432 (TTY). Pursuant to 47 CFR 1.415 and 1.419, interested parties may file comments and reply comments on or before the respective dates indicated in the **DATES** section of this document.

Federal Communications Commission.

Daniel Margolis,

Acting Legal Advisor, Consumer and Governmental Affairs Bureau.

[FR Doc. 2018–22510 Filed 10–16–18; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0692]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or 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 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 December 17, 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 Cathy Williams, FCC, via email to *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: 3060–0692.

Type of Review: Extension of a currently approved collection.

Title: Sections 76.802 and 76.804, Home Wiring Provisions; Section 76.613, Interference from a Multi-channel Video Programming Distributor (MVPD).

Form Number: N/A.

Respondents: Individuals or households; Business or other for-profit entities.

Number of Respondents: 22,000.

Estimated Time per Response: 0.083–2 hours.

Frequency of Response: On occasion reporting requirement; Recordkeeping requirement; Annual reporting requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Sections 1, 4, 224, 251, 303, 601, 623, 624 and 632 of the Communications Act of 1934, as amended.

Total Annual Burden: 36,114 hours.

Total Annual Cost: No cost.

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: In the Cable Television Consumer Protection and Competition Act of 1992, Congress directed the FCC to adopt rules governing the disposition of home wiring owned by a cable operator when

a subscriber terminates service. The rules at 76.800 *et seq.,* implement that directive. The intention of the rules is to clarify the status and provide for the disposition of existing cable operator-owned wiring in single family homes and multiple dwelling units upon the termination of a contract for cable service by the home owner or MDU owner. Section 76.613(d) requires that when Multichannel Video Programming Distributors (MVPDs) cause harmful signal interference MVPDs may be required by the District Director and/or Resident Agent to prepare and submit a report regarding the cause(s) of the interference, corrective measures planned or taken, and the efficacy of the remedial measures.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2018–22527 Filed 10–16–18; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL HOUSING FINANCE AGENCY

[No. 2018–N–11]

Proposed Collection; Comment Request

AGENCY: Federal Housing Finance Agency.

ACTION: 60-Day notice of submission of information collection for approval from Office of Management and Budget.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995 (PRA), the Federal Housing Finance Agency (FHFA or the Agency) is seeking public comments concerning an information collection known as ''Advances to Housing Associates,'' which has been assigned control number 2590–0001 by the Office of Management and Budget (OMB). FHFA intends to submit the information collection to OMB for review and approval of a three-year extension of the control number, which is due to expire on December 31, 2018.

DATES: Interested persons may submit comments on or before December 17, 2018.

ADDRESSES: Submit comments to FHFA, identified by ''Proposed Collection; Comment Request: 'Advances to Housing Associates, (No. 2018–N–11)' '' by any of the following methods:

- *Agency Website: www.fhfa.gov/open-for-comment-or-input.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. If you submit your comment to the Federal eRulemaking Portal, please also send it by *email* to FHFA at *RegComments@fhfa.gov* to ensure timely receipt by the agency.
- *Mail/Hand Delivery:* Federal Housing Finance Agency, Eighth Floor, 400 Seventh Street SW, Washington, DC 20219, ATTENTION: Proposed Collection; Comment Request: ''Advances to Housing Associates, (No. 2018–N–11)''.

We will post all public comments we receive without change, including any personal information you provide, such as your name and address, email address, and telephone number, on the FHFA website at *http://www.fhfa.gov.* In addition, copies of all comments received will be available for examination by the public on business days between the hours of 10 a.m. and 3 p.m., at the Federal Housing Finance Agency, Eighth Floor, 400 Seventh Street SW, Washington, DC 20219. To make an appointment to inspect comments, please call the Office of General Counsel at (202) 649–3804.

FOR FURTHER INFORMATION CONTACT: Jonathan F. Curtis, Financial Analyst, by email at *Jonathan.Curtis@fhfa.gov,* by telephone at (202) 649–3321, or Eric M. Raudenbush, Assistant General Counsel, *Eric.Raudenbush@fhfa.gov,* (202) 649–3084 (these are not toll-free numbers); Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219. The Telecommunications Device for the Hearing Impaired is (800) 877–8339.

SUPPLEMENTARY INFORMATION:

A. Need For and Use of the Information Collection

Section 10b of the Federal Home Loan Bank Act (Bank Act) establishes the requirements for making Federal Home Loan Bank (Bank) advances (secured loans) to nonmember mortgagees, which are referred to as ''Housing Associates'' in FHFA's regulations.[1] Section 10b also establishes the eligibility requirements an applicant must meet in order to be certified as a Housing Associate.

Part 1264 of FHFA's regulations implements the statutory eligibility requirements and establishes uniform review criteria the Banks must use in evaluating applications from entities that wish to be certified as a Housing Associate. Specifically, § 1264.4 implements the statutory eligibility requirements and provides guidance to an applicant on how it may satisfy those requirements.[2] Section 1264.5 authorizes the Banks to approve or deny all applications for certification as a Housing Associate, subject to the statutory and regulatory requirements.[3] It also permits an applicant that has been denied certification by a Bank to appeal that decision to FHFA.

In part 1266 of FHFA's regulations, subpart B governs Bank advances to Housing Associates that have been approved under part 1264. Section 1266.17 establishes the terms and conditions under which a Bank may make advances to Housing Associates.[4] Specifically, § 1266.17(e) imposes a continuing obligation on each certified Housing Associate to provide information necessary for the Bank to determine if it remains in compliance with applicable statutory and regulatory requirements, as set forth in part 1264.

The OMB control number for the information collection, which expires on December 31, 2018, is 2590–0001. The likely respondents include entities applying to be certified as a Housing Associate and current Housing Associates.

B. Burden Estimates

FHFA estimates the total annualized hour burden imposed upon respondents by this information collection to be 318 hours (14 hours for applicants + 304 hours for current Housing Associates), based on the following calculations:

I. Applicants

FHFA estimates that the total annual average number of entities applying to be certified as a Housing Associate over the next three years will be one, with one response per applicant. The estimate for the average hours per application is 14 hours. Therefore, the estimate for the total annual hour burden for all applicants is 14 hours (1 applicant × 1 response per applicant × 14 hours = 14 hours).

II. Current Housing Associates

FHFA estimates that the total annual average number of existing Housing Associates over the next three years will be 76, with one response per Housing Associate required to comply with the regulatory reporting requirements. The estimate for the average hours per response is 4 hours. Therefore, the estimate for the total annual hour burden for current Housing Associates is 304 hours (76 certified Housing Associates × 1 response per associate × 4 hours = 304 hours).

[1] *See* 12 U.S.C. 1430b; 12 CFR 1264.3.

[2] *See* 12 CFR 1264.4.

[3] *See* 12 CFR 1264.5.

[4] *See* 12 CFR 1266.17.

C. Comments Request

FHFA requests written comments on the following: (1) Whether the collection of information is necessary for the proper performance of FHFA functions, including whether the information has practical utility; (2) the accuracy of FHFA's estimates of the burdens of the collection of information; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Dated: October 12. 2018.

Kevin Winkler,

Chief Information Officer, Federal Housing Finance Agency.

[FR Doc. 2018–22667 Filed 10–16–18; 8:45 am]

BILLING CODE 8070–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, without revision, the Disclosure Requirements of Subpart H of Regulation H (Consumer Protections in Sales of Insurance) (Reg H–7; OMB No. 7100–0298).

DATES: Comments must be submitted on or before December 17, 2018.

ADDRESSES: You may submit comments, identified by *Reg H–7,* by any of the following methods:

- *Agency Website: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Email: regs.comments@federalreserve.gov.* Include OMB number in the subject line of the message.
- *FAX:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available from the Board's website at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room 3515, 1801 K Street, NW (between 18th and 19th Streets NW) Washington, DC 20006 between 9:00 a.m. and 5:00 p.m. on weekdays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452–3684. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, commenters may send a copy of their comments to the OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street, NW, Washington, DC 20503, or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of the PRA OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, if approved. These documents will also be made available on the Board's public website at *http://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC, 20551.

SUPPLEMENTARY INFORMATION: On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;

b. The accuracy of the Board's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

Proposal To Approve Under OMB Delegated Authority the Extension for Three Years, Without Revision, of the Following Report

Report title: Disclosure Requirements of subpart H of Regulation H (Consumer Protections in Sales of Insurance).

Agency form number: Reg H–7.

OMB control number: 7100–0298.

Frequency: On occasion.

Respondents: State member banks and other persons.

Estimated number of respondents: 822.

Estimated time per response: 1.5 minutes.

Estimated annual burden hours: 12,947.

General description of report: Subpart H of Regulation H was adopted by the Board in 2003 pursuant to section 305 of the Gramm-Leach-Bliley Act of 1999 (GLBA), which required the federal banking agencies to issue joint regulations governing retail sales practices, solicitations, advertising, and offers of insurance by, on behalf of, or at the offices of insured depository institutions. The insurance consumer protection rules in Regulation H, which apply to the sale of insurance by a state member bank or by any other person at

an office of the bank or on behalf of the bank (collectively, ''Covered Persons''), require Covered Persons to prepare and provide certain disclosures to consumers. Covered Persons are required to make certain written and oral disclosures before the completion of the initial sale of an insurance product or annuity to a consumer and at the time a consumer applies for an extension of credit in connection with which an insurance product or annuity is solicited, offered, or sold (see 12 CFR 208.84(a)–(d)).

Legal authorization and confidentiality: Section 305 of the GLBA requires that the Board issue regulations, including disclosure requirements, applicable to retail sales practices, solicitations, advertising, or offers of insurance by depository institutions (12 U.S.C. 1831x). The disclosure requirements described above are contained in subpart H of the Board's Regulation H. 12 CFR part 208, subpart H. The disclosures required under subpart H are mandatory. Because Regulation H–7 disclosures are provided by Covered Persons to customers, confidentiality issues should generally not arise. However, if the Board obtains any institution-specific information during an examination of a state member bank, such information may be protected under exemption (b)(8) of the Freedom of Information Act, which exempts from disclosure materials related to the examination of financial institutions (5 U.S.C. 552(b)(8)).

Board of Governors of the Federal Reserve System, October 11, 2018.

Michele Taylor Fennell,

Assistant Secretary of the Board.

[FR Doc. 2018–22551 Filed 10–16–18; 8:45 am]

BILLING CODE 6210–01–P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–XXXX; Docket No. 2018-0001; Sequence No. 19]

Information Collection; Mobile Now Act

AGENCY: Office of Government-wide Policy (OGP), General Services Administration (GSA).

ACTION: Emergency Clearance Notice.

SUMMARY: As required by the Paperwork Reduction Act of 1995, as amended by the Clinger-Cohen Act, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve a new information collection requirement regarding the MOBILE NOW Act.

DATES: Submit comments on or before October 29, 2018.

ADDRESSES: Submit comments identified by Information Collection 3090–XXXX; Mobile Now Act, by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching for the OMB Control number 3090–XXXX. Select the link ''Comment Now'' that corresponds with ''Information Collection 3090–XXXX; Mobile Now Act''. Follow the instructions on the screen. Please include your name, company name (if any), and ''Information Collection 3090–XXXX; Mobile Now Act'' on your attached document.
- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405–0001. ATTN: Ms. Mandell/IC 3090–XXXX; Mobile Now Act.

Instructions: Please submit comments only and cite Information Collection 3090–XXXX; Mobile Now Act, in all correspondence related to this collection. Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two-to-three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Jennie Campbell, Project Manager, Office of Government-wide Policy, at telephone number 202–694–8131, or via email to *jennie.campbell@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

On March 23, 2018, the President signed HR 1625, ''Consolidated Appropriations Act, 2018,'' which provided appropriations through fiscal year 2018. GSA is required by the MOBILE NOW Act (Section 608(d) of Title VI of Division P of the Consolidated Appropriations Act, 2018 [P. L. 115–141]) to study: (a) How to incentivize State and local governments to provide GSA with real property data for inclusion in the Federal Real Property Profile (FRPP) database, and (b) the feasibility of establishing or operating a database to which State and local governments can voluntarily submit this data. Section 608(d) also directs GSA to consult with State and local governments, or their representatives, to identify the most cost effective options for State and local governments to collect and provide real property data on assets that could support a communications facility installation and make recommendations on ways the Federal Government can assist State and local governments in collecting and providing this data. Further, section 608(d) directs GSA to submit a report to Congress on this study by March 22, 2019. This information is not already widely available and requires the solicitation of feedback from the relevant stakeholders. GSA determined that developing a survey was the most efficient and effective means for studying the items identified in Section 608(d) within this timeframe. This is a one-time data collection and will not require repeated collection.

Although the agency may not respond to each individual comment, GSA may follow-up with respondents to clarify comments. GSA values public feedback and will consider all input that it receives.

B. Annual Reporting Burden

Respondents: 1,200.

Responses per Respondent: 1.

Total Annual Responses: 1,200.

Hours per Response: .166667.

Total Burden Hours: 200.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405. ATTN: Information Collection 3090–XXXX; Mobile Now Act.

Please cite OMB Control No. 3090–XXXX, Mobile Now Act, in all correspondence.

Dated: October 10, 2018.

David A. Shive,

Chief Information Officer.

[FR Doc. 2018–22650 Filed 10–16–18; 8:45 am]

BILLING CODE 6820–14–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Docket No. CDC–2018–0094; NIOSH–321]

Implementation of Section 2695 (42 U.S.C. 300ff–131) Public Law 111–87: Infectious Diseases and Circumstances Relevant to Notification Requirements: Definition of Emergency Response Employee

AGENCY: Centers for Disease Control and Prevention, HHS.

ACTION: Notice and request for comment.

SUMMARY: The Centers for Disease Control and Prevention (CDC), within the Department of Health and Human Services (HHS), is adding a definition of the term ''emergency response employees'' to the definitions section of the document entitled ''Implementation of Section 2695 (42 U.S.C. 300ff–131) Public Law 111–87: Infectious Diseases and Circumstances Relevant to Notification Requirements,'' which contains a list of potentially life-threatening infectious diseases to which emergency response employees may be exposed and companion guidelines published by the National Institute for Occupational Safety and Health (NIOSH), pursuant to the Ryan White HIV/AIDS Treatment Extension Act of 2009.

DATES: Comments must be received by December 17, 2018.

ADDRESSES:

Written comments: You may submit comments by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments to the docket.
- *Mail:* NIOSH Docket Office, Robert A. Taft Laboratories, MS–C34, 1090 Tusculum Avenue, Cincinnati, OH 45226.

Instructions: All submissions received must include the agency name (Centers for Disease Control and Prevention, HHS) and docket number (CDC–2018–0094; NIOSH–321) for this action. All relevant comments, including any personal information provided, will be posted without change to *http://www.regulations.gov.* For detailed instructions on submitting public comments, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Rachel Weiss, Office of the Director, NIOSH; 1090 Tusculum Avenue, MS:C–48, Cincinnati, OH 45226; telephone (855) 818–1629 (this is a toll-free number); email *NIOSHregs@cdc.gov.*

SUPPLEMENTARY INFORMATION:

I. Public Participation

Interested parties may participate in this activity by submitting written views, opinions, recommendations, and data. 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 do not wish to be disclosed. Although your name, contact information, or other information that identifies you in the body of your comments will be on public display, NIOSH will review all submissions and may choose (but is not required) to redact or withhold submissions containing private or proprietary information such as Social Security numbers, medical information, and/or inappropriate language. You may submit comments on any topic related to this action. All public comments will be posted in the docket for this action at *https://www.regulations.gov.*

II. Statutory Authority

The Ryan White Comprehensive AIDS Resources Emergency (CARE) Act of 1990 (Pub. L. 101–381) was reauthorized in 1996, 2000, 2006, and 2009. The most recent reauthorization, the Ryan White HIV/AIDS Treatment Extension Act of 2009 (Pub. L. 111–87), amended the Public Health Service Act (PHS Act, 42 U.S.C. 201–300ii) and requires the HHS Secretary to establish the following: A list of potentially life-threatening infectious diseases, including emerging infectious diseases, to which emergency response employees (ERE) may be exposed in responding to emergencies; guidelines describing circumstances in which EREs may be exposed to these diseases, taking into account the conditions under which emergency response is provided; and guidelines describing the manner in which medical facilities should make determinations about exposures.

In a **Federal Register** notice published on July 14, 2010, the HHS Secretary delegated this responsibility to the CDC Director.[1] The CDC Director further assigned the responsibility to the NIOSH Director and formally re-delegated the authority to develop the list and guidelines to NIOSH on August 27, 2018.[2]

[1] 75 FR 40842.

[2] 83 FR 50379 (October 4, 2018).

III. Background

On November 2, 2011, CDC published a notice in the **Federal Register** entitled *Implementation of Section 2695 (42 U.S.C. 300ff–131) Public Law 111–87: Infectious Diseases and Circumstances Relevant to Notification Requirements.*[3] The notice included ''a list of potentially life-threatening infectious diseases, including emerging infectious diseases, to which EREs may be exposed in responding to emergencies . . .; guidelines describing circumstances in which employees may be exposed to these diseases; and guidelines describing the manner in which medical facilities should make determinations about exposures.'' The list and guidelines published in that notice did not include a definition for ''emergency response employee.''

Upon reconsideration following additional requests to clarify the meaning of ''emergency response employee,'' NIOSH is adding a definition of the term ''emergency response employee'' to the definitions section of the list and guidelines. ''Emergency response employee'' means:

> firefighters, law enforcement officers, paramedics, emergency medical technicians, funeral service practitioners, and other individuals (including employees of legally organized and recognized volunteer organizations, without regard to whether such employees receive nominal compensation) who, in the course of professional duties, respond to emergencies in the geographic area involved.

The definition effectively identifies those employees who may be exposed to a potentially life-threatening infectious disease while attending to, treating, assisting or transporting a victim of an emergency taken to a medical facility as a result of the emergency (*see* 42 U.S.C. 300ff–133(a)). The definition's reference to ''other individuals'' provides NIOSH with discretion in determining whether additional categories of EREs may be included in the future. By including this definition, all interested parties, including those responsible for reporting when an ERE has been exposed to a potentially life-threatening infectious disease, ERE employers, medical facilities, state public health officers, the EREs themselves, and the public will know which individuals and entities fall within the scope of the notification procedures and guidelines.

This definition was originally included in the Ryan White CARE Act of 1990 and amended by the Ryan White CARE Act Amendments of 1996 (Pub. L. 104–146), and, therefore, codified in the

[3] 76 FR 67736.

PHS Act. The notification provisions, including the definition of ''emergency response employee,'' were then removed from the Ryan White HIV/AIDS Treatment Modernization Act of 2006 and the PHS Act.[4] The term ''emergency response employee,'' however, continued to be used in a different part of the statutes pertaining to responsibilities assigned to the Health Resources and Services Administration (HRSA).[5] When Congress reinstated the notification provisions in Part G of the Ryan White HIV/AIDS Treatment Extension Act of 2009, a definition of ERE was not included.

NIOSH has interpreted the legislative history and the development of the Ryan White CARE Act of 1990 and subsequent reauthorizations to indicate that Congress's failure to restore the original definition of ERE was unintentional and merely an oversight. Including the original statutory definition in the NIOSH list and guidelines would allow the notification provisions to be implemented as Congress originally intended.

Including the definition of ''emergency response employee'' in the definitions section of the list and guidelines is within NIOSH's authority, pursuant to the August 27, 2018 re-delegation for the sec. 2695 duties. Implicit in this directive is the need to identify the types of EREs who transport or serve victims of emergencies taken to medical facilities, in order to improve the notification system allowing EREs to receive timely diagnosis and post-exposure medical treatment for infectious disease exposures. NIOSH therefore has the authority to include the definition of ''emergency response employees'' in the list and guidelines.

After consideration of public comment submitted to the docket for this action, NIOSH will update the guidelines and list with the ERE definition and re-publish them on the NIOSH Ryan White HIV/AIDS Treatment Extension Act of 2009 topic page, at *https://www.cdc.gov/niosh/topics/ryanwhite/.*

John J. Howard,

Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention.

[FR Doc. 2018–22522 Filed 10–16–18; 8:45 am]

BILLING CODE 4163–19–P

[4] The notification provisions now included in Part G were formerly found in Part E, which was deleted because the intent of the 2006 reauthorization was, in part, to eliminate programs ''which had never been funded or re-examined in the last two reauthorizations.'' Congress then ''deleted definitions which were no longer relevant (*e.g.,* designated officer of emergency response employees, emergency, emergency response employee, employer of emergency response employees, and exposed),'' which were located in Part D of the original statute. *See* H.R. REP. NO. 109–695, at 12 (2006).

[5] 42 U.S.C. 300ff–62.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Breast and Cervical Cancer Early Detection and Control Advisory Committee (BCCEDCAC); Notice of Charter Renewal

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of charter renewal.

SUMMARY: This gives notice under the Federal Advisory Committee Act of October 6, 1972, that the Breast and Cervical Cancer Early Detection and Control Advisory Committee (BCCEDCAC), Centers for Disease Control and Prevention, Department of Health and Human Services, has been renewed for a 2-year period through September 12, 2020.

FOR FURTHER INFORMATION CONTACT: Ms. Jameka Blackmon, Designated Federal Officer, BCCEDCAC, CDC, 1600 Clifton Road NE, M/S K57, Atlanta, Georgia 30329, telephone (770) 488–4740; fax (770) 488–3230.

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. 2018–22561 Filed 10–16–18; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP); Notice of Charter Renewal

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of charter renewal.

SUMMARY: This gives notice under the Federal Advisory Committee Act of October 6, 1972, that the Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP), Centers for Disease Control and Prevention, Department of Health and Human Services, has been renewed for a 2-year period through September 18, 2020.

FOR FURTHER INFORMATION CONTACT: Chris Langub, Ph.D., Designated Federal Officer, CDC, 1600 Clifton Road NE, Mailstop K48, Atlanta, Georgia 30329–4027, telephone (770) 488–3585; email *eeo6@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. 2018–22616 Filed 10–16–18; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–8069–N]

RIN 0938–AT34

Medicare Program; CY 2019 Part A Premiums for the Uninsured Aged and for Certain Disabled Individuals Who Have Exhausted Other Entitlement

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice.

SUMMARY: This annual notice announces Medicare's Hospital Insurance (Part A) premium for uninsured enrollees in

calendar year (CY) 2019. This premium is paid by enrollees age 65 and over who are not otherwise eligible for benefits under Medicare Part A (hereafter known as the ''uninsured aged'') and by certain disabled individuals who have exhausted other entitlement. The monthly Part A premium for the 12 months beginning January 1, 2019 for these individuals will be $437. The premium for certain other individuals as described in this notice will be $240.

DATES: *Effective Date:* This notice is effective on January 1, 2019.

FOR FURTHER INFORMATION CONTACT: Yaminee Thaker, (410) 786–7921.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1818 of the Social Security Act (the Act) provides for voluntary enrollment in the Medicare Hospital Insurance Program (Medicare Part A), subject to payment of a monthly premium, of certain persons aged 65 and older who are uninsured under the Old-Age, Survivors, and Disability Insurance (OASDI) program or the Railroad Retirement Act and do not otherwise meet the requirements for entitlement to Medicare Part A. These ''uninsured aged'' individuals are uninsured under the OASDI program or the Railroad Retirement Act, because they do not have 40 quarters of coverage under Title II of the Act (or are/were not married to someone who did). (Persons insured under the OASDI program or the Railroad Retirement Act and certain others do not have to pay premiums for Medicare Part A.)

Section 1818A of the Act provides for voluntary enrollment in Medicare Part A, subject to payment of a monthly premium for certain disabled individuals who have exhausted other entitlement. These are individuals who were entitled to coverage due to a disabling impairment under section 226(b) of the Act, but who are no longer entitled to disability benefits and free Medicare Part A coverage because they have gone back to work and their earnings exceed the statutorily defined ''substantial gainful activity'' amount (section 223(d)(4) of the Act).

Section 1818A(d)(2) of the Act specifies that the provisions relating to premiums under section 1818(d) through section 1818(f) of the Act for the aged will also apply to certain disabled individuals as described above.

Section 1818(d)(1) of the Act requires us to estimate, on an average per capita basis, the amount to be paid from the Federal Hospital Insurance Trust Fund for services incurred in the upcoming calendar year (CY) (including the associated administrative costs) on behalf of individuals aged 65 and over who will be entitled to benefits under Medicare Part A. We must then determine the monthly actuarial rate for the following year (the per capita amount estimated above divided by 12) and publish the dollar amount for the monthly premium in the succeeding CY. If the premium is not a multiple of $1, the premium is rounded to the nearest multiple of $1 (or, if it is a multiple of 50 cents but not of $1, it is rounded to the next highest $1).

Section 13508 of the Omnibus Budget Reconciliation Act of 1993 (Pub. L. 103–66) amended section 1818(d) of the Act to provide for a reduction in the premium amount for certain voluntary enrollees (section 1818 and section 1818A of the Act). The reduction applies to an individual who is eligible to buy into the Medicare Part A program and who, as of the last day of the previous month:

- Had at least 30 quarters of coverage under Title II of the Act;
- Was married, and had been married for the previous 1 year period, to a person who had at least 30 quarters of coverage;
- Had been married to a person for at least 1 year at the time of the person's death if, at the time of death, the person had at least 30 quarters of coverage; or
- Is divorced from a person and had been married to the person for at least 10 years at the time of the divorce if, at the time of the divorce, the person had at least 30 quarters of coverage.

Section 1818(d)(4)(A) of the Act specifies that the premium that these individuals will pay for CY 2019 will be equal to the premium for uninsured aged enrollees reduced by 45 percent.

Section 1818(g) of the Act requires the Secretary, at the request of a state, to enter into a Part A buy-in agreement with a state to pay Medicare Part A premiums for Qualified Medicare Beneficiaries (QMBs). Under the QMB program, state Medicaid agencies must pay the Medicare Part A premium for those not eligible for premium-free Part A. (Entering into a Part A buy-in agreement would permit a state to avoid late enrollment penalties and enroll persons in Part A at any time of the year (without regard to Medicare enrollment periods)).

II. Monthly Premium Amount for CY 2019

The monthly premium for the uninsured aged and certain disabled individuals who have exhausted other entitlement for the 12 months beginning January 1, 2019, is $437. The monthly premium for the individuals eligible under section 1818(d)(4)(B) of the Act, and therefore, subject to the 45 percent reduction in the monthly premium, is $240.

III. Monthly Premium Rate Calculation

As discussed in section I of this notice, the monthly Medicare Part A premium is equal to the estimated monthly actuarial rate for CY 2019 rounded to the nearest multiple of $1 and equals one-twelfth of the average per capita amount, which is determined by projecting the number of Medicare Part A enrollees aged 65 years and over as well as the benefits and administrative costs that will be incurred on their behalf.

The steps involved in projecting these future costs to the Federal Hospital Insurance Trust Fund are:

- Establishing the present cost of services furnished to beneficiaries, by type of service, to serve as a projection base;
- Projecting increases in payment amounts for each of the service types; and
- Projecting increases in administrative costs.

We base our projections for CY 2019 on—(1) current historical data; and (2) projection assumptions derived from current law and the Mid-Session Review of the President's Fiscal Year 2019 Budget.

We estimate that in CY 2019, 51,601,049 people aged 65 years and over will be entitled to (enrolled in) benefits (without premium payment) and that they will incur about $270.703 billion in benefits and related administrative costs. Thus, the estimated monthly average per capita amount is $437.17 and the monthly premium is $437. Subsequently, the full monthly premium reduced by 45 percent is $240.

IV. Costs to Beneficiaries

The CY 2019 premium of $437 is approximately 3.6 percent higher than the CY 2018 premium of $422. We estimate that approximately 679,000 enrollees will voluntarily enroll in Medicare Part A, by paying the full premium. We estimate that over 90 percent of these individuals will have their Part A premium paid for by states, since they are enrolled in the QMB program. Furthermore, the CY 2019 reduced premium of $240 is approximately 3.4 percent higher than the CY 2018 premium of $232. We estimate an additional 75,000 enrollees will pay the reduced premium. Therefore, we estimate that the total aggregate cost to enrollees paying these premiums in CY 2019, compared to the

amount that they paid in CY 2018, will be about $129 million.

V. Waiver of Proposed Notice and Comment Period

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** and invite public comment prior to a rule taking effect in accordance with section 553(b) of the Administrative Procedure Act (APA) and section 1871 of the Act. However, we believe that the policies being publicized in this document do not constitute agency rulemaking. Rather, the statute requires that the agency determine the applicable premium amount for each calendar year in accordance with the statutory formula, and we are simply notifying the public of the changes to the Medicare Part A premiums for CY 2019. To the extent any of the policies articulated in this document constitute interpretations of the statute's requirements or procedures that will be used to implement the statute's directive, they are interpretive rules, general statements of policy, and rules of agency organization, procedure, or practice, which are not subject to notice and comment rulemaking under the APA.

To the extent that notice and comment rulemaking would otherwise apply, we find good cause to waive this requirement. Under the APA, we may waive notice and public procedure if we find good cause that prior notice and comment are impracticable, unnecessary, or contrary to the public interest. We believe that notice and comment rulemaking for this notification of Medicare Part A premiums for CY 2019 is unnecessary because of the lack of CMS discretion in the statutory formula that is used to calculate the premium and the solely ministerial function that this notice serves. Therefore, we find good cause to waive notice and comment procedures, if such procedures are required at all.

VI. Collection of Information Requirements

This document does not impose information collection requirements, that is, reporting, recordkeeping or third-party disclosure requirements. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

VII. Regulatory Impact Analysis

A. Statement of Need

Section 1818(d) of the Act requires the Secretary of the Department of Health and Human Services (the Secretary) during September of each year to determine and publish the amount to be paid, on an average per capita basis, from the Federal Hospital Insurance Trust Fund for services incurred in the impending CY (including the associated administrative costs) on behalf of individuals aged 65 and over who will be entitled to benefits under Medicare Part A.

B. Overall Impact

We have examined the impacts of this notice in accordance with Executive Order 12866 on Regulatory Planning and Review (September 30, 1993), Executive Order 13563 on Improving Regulation and Regulatory Review (January 18, 2011), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), section 1102(b) of the Social Security Act, section 202 of the Unfunded Mandates Reform Act of 1995 (March 22, 1995; Pub. L. 104–4), Executive Order 13132 on Federalism (August 4, 1999), the Congressional Review Act (5 U.S.C. 804(2)), and Executive Order 13771 on Reducing Regulation and Controlling Regulatory Costs (January 30, 2017).

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action that is likely to result in a rule: (1) Having an annual effect on the economy of $100 million or more in any 1 year, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local or tribal governments or communities (also referred to as ''economically significant''); (2) creating a serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any 1 year). Although we do not consider this notice to constitute a substantive rule, this notice is economically significant under section 3(f)(1) of Executive Order 12866. As stated in section IV of this notice, we estimate that the overall effect of the changes in the Part A premium will be a cost to voluntary enrollees (section 1818 and section 1818A of the Act) of about $129 million.

The RFA requires agencies to analyze options for regulatory relief of small entities. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and small governmental jurisdictions. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of less than $7.5 million to $38.5 million in any 1 year. Individuals and states are not included in the definition of a small entity. This annual notice announces the Medicare Part A premiums for CY 2019 and will have an impact on the Medicare beneficiaries. As a result, we are not preparing an analysis for the RFA because the Secretary has determined that this notice will not have a significant economic impact on a substantial number of small entities.

In addition, section 1102(b) of the Act requires us to prepare an RIA if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area for Medicare payment regulations and has fewer than 100 beds. This annual notice announces the Medicare Part A premiums for CY 2019 and will have an impact on the Medicare beneficiaries. As a result, we are not preparing an analysis for section 1102(b) of the Act, because the Secretary has determined that this notice will not have a significant impact on the operations of a substantial number of small rural hospitals.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of $100 million in 1995 dollars, updated annually for inflation. In 2018, that threshold is approximately $150 million. This notice does not impose mandates that will have a consequential effect of $150 million or more on state, local, or tribal governments or on the private sector.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a

proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on state and local governments, preempts state law, or otherwise has Federalism implications. This notice will not have a substantial direct effect on state or local governments, preempt state law, or otherwise have Federalism implications.

Executive Order 13771, titled ''Reducing Regulation and Controlling Regulatory Costs,'' was issued on January 30, 2017 (82 FR 9339, February 3, 2017). It has been determined that this notice is a transfer notice that does not impose more than de minimis costs and thus is not a regulatory action for the purposes of E.O. 13771.

Consistent with the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*), this notice has been transmitted to the Congress and the Comptroller General for review.

In accordance with the provisions of Executive Order 12866, this notice was reviewed by the Office of Management and Budget.

Although this notice does not constitute a substantive rule, we nevertheless prepared this Impact Analysis in the interest of ensuring that the impacts of this notice are fully understood.

Dated: October 3, 2018.

Seema Verma,

Administrator, Centers for Medicare & Medicaid Services.

Dated: October 11, 2018.

Alex M. Azar II,

Secretary, Department of Health and Human Services.

[FR Doc. 2018–22529 Filed 10–12–18; 11:15 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–3370–PN]

Medicare and Medicaid Program; Application from the Accreditation Association for Hospitals/Health Systems-Healthcare Facilities Accreditation Program (AAHHS–HFAP) for Approval of its Hospital Accreditation Program

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice with request for comment.

SUMMARY: This proposed notice acknowledges the receipt of an application from the Accreditation Association for Hospitals/Health Systems-Healthcare Facilities Accreditation Program (AAHHS–HFAP) for recognition as a national accrediting organization for hospitals that wish to participate in the Medicare or Medicaid programs.

DATES: To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on November 16, 2018.

ADDRESSES: In commenting, refer to file code CMS–3370–PN. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

Comments, including mass comment submissions, must be submitted in one of the following three ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to *http://www.regulations.gov.* Follow the ''Submit a comment'' instructions.

2. *By regular mail.* You may mail written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–3370–PN, P.O. Box 8016, Baltimore, MD 21244–8010.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–3370–PN, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Monda Shaver, (410) 786–3410, Mary Ellen Palowitch, (410) 786–4496, or Renee Henry, (410) 786–7828.

SUPPLEMENTARY INFORMATION:

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following website as soon as possible after they have been received: *http://www.regulations.gov.* Follow the search instructions on that website to view public comments.

I. Background

Under the Medicare program, eligible beneficiaries may receive covered services from a hospital, provided that certain requirements are met. Section 1861(e) of the Social Security Act (the Act), establishes distinct criteria for facilities seeking designation as a hospital. Regulations concerning provider agreements are at 42 CFR part 489 and those pertaining to activities relating to the survey and certification of facilities are at 42 CFR part 488. The regulations at 42 CFR part 482 specify the minimum conditions that a hospital must meet to participate in the Medicare program.

Generally, to enter into an agreement, a hospital must first be certified by a state survey agency as complying with the conditions or requirements set forth in part 482 of our regulations. Thereafter, the hospital is subject to regular surveys by a state survey agency to determine whether it continues to meet these requirements. There is an alternative; however, to surveys by state agencies.

Section 1865(a)(1) of the Act provides that, if a provider entity demonstrates through accreditation by an approved national accrediting organization that all applicable Medicare conditions are met or exceeded, we may deem those provider entities as having met the requirements. Accreditation by an accrediting organization is voluntary and is not required for Medicare participation.

If an accrediting organization is recognized by the Secretary of the Department of Health and Human Services (the Secretary) as having standards for accreditation that meet or exceed Medicare requirements, any provider entity accredited by the national accrediting body's approved program may be deemed to meet the Medicare conditions. A national accrediting organization applying for approval of its accreditation program under part 488, subpart A, must provide the Centers for Medicare and Medicaid Services (CMS) with reasonable assurance that the accrediting organization requires the accredited provider entities to meet requirements that are at least as stringent as the Medicare conditions. Our regulations concerning the approval of accrediting organizations are set forth at § 488.5. The regulations at § 488.5(e)(2)(i) require accrediting organizations to reapply for continued approval of its accreditation program every 6 years or sooner as determined by CMS.

II. Provisions of the Proposed Notice

A. Approval of Deeming Organizations

Section 1865(a)(2) of the Act and our regulations at § 488.5 require that our

findings concerning review and approval of a national accrediting organization's requirements consider, among other factors, the applying accrediting organization's requirements for accreditation; survey procedures; resources for conducting required surveys; capacity to furnish information for use in enforcement activities; monitoring procedures for provider entities found not in compliance with the conditions or requirements; and ability to provide us with the necessary data for validation.

Section 1865(a)(3)(A) of the Act further requires that we publish, within 60 days of receipt of an organization's complete application, a notice identifying the national accrediting body making the request, describing the nature of the request, and providing at least a 30-day public comment period. We have 210 days from the receipt of a complete application to publish notice of approval or denial of the application.

The purpose of this proposed notice is to inform the public of AAHHS–HFAP's request for approval of its hospital accreditation program. This notice also solicits public comment on whether AAHHS–HFAP's requirements meet or exceed the Medicare conditions of participation (CoPs) for hospitals.

B. Evaluation of Deeming Authority Request

AAHHS–HFAP submitted all the necessary materials to enable us to make a determination concerning its request for continued approval of its hospital accreditation program. This application was determined to be complete on August 17, 2018. Under section 1865(a)(2) of the Act and our regulations at § 488.5 (Application and re-application procedures for national accrediting organizations), our review and evaluation of AAHHS–HFAP will be conducted in accordance with, but not necessarily limited to, the following factors:

- The equivalency of AAHHS–HFAP's standards for hospitals as compared with CMS' hospital CoPs.
- AAHHS–HFAP's survey process to determine the following:

++ The composition of the survey team, surveyor qualifications, and the ability of the organization to provide continuing surveyor training.

++ The comparability of AAHHS–HFAP's processes to those of state agencies, including survey frequency, and the ability to investigate and respond appropriately to complaints against accredited facilities.

++ AAHHS–HFAP's processes and procedures for monitoring a hospital found out of compliance with the AAHHS–HFAP's program requirements. These monitoring procedures are used only when the AAHHS–HFAP identifies noncompliance. If noncompliance is identified through validation reviews or complaint surveys, the state survey agency monitors corrections as specified at § 488.9(c).

++ AAHHS–HFAP's capacity to report deficiencies to the surveyed facilities and respond to the facility's plan of correction in a timely manner.

++ AAHHS–HFAP's capacity to provide CMS with electronic data and reports necessary for effective validation and assessment of the organization's survey process.

++ The adequacy of AAHHS–HFAP's staff and other resources, and its financial viability.

++ AAHHS–HFAP's capacity to adequately fund required surveys.

++ AAHHS–HFAP's policies with respect to whether surveys are announced or unannounced, to assure that surveys are unannounced.

++ AAHHS–HFAP's agreement to provide CMS with a copy of the most current accreditation survey together with any other information related to the survey as we may require (including corrective action plans).

C. Notice Upon Completion of Evaluation

Upon completion of our evaluation, including evaluation of public comments received as a result of this notice, we will publish a final notice in the **Federal Register** announcing the result of our evaluation.

III. Collection of Information Requirements

This document does not impose information collection requirements, that is, reporting, recordkeeping or third-party disclosure requirements. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

IV. Response to Comments

Because of the large number of public comments we normally receive on **Federal Register** documents, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, when we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

Dated: October 10, 2018.

Seema Verma,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 2018–22546 Filed 10–16–18; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–8068–N]

RIN 0938–AT33

Medicare Program; CY 2019 Inpatient Hospital Deductible and Hospital and Extended Care Services Coinsurance Amounts

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice.

SUMMARY: This notice announces the inpatient hospital deductible and the hospital and extended care services coinsurance amounts for services furnished in calendar year (CY) 2019 under Medicare's Hospital Insurance Program (Medicare Part A). The Medicare statute specifies the formulae used to determine these amounts. For CY 2019, the inpatient hospital deductible will be $1,364. The daily coinsurance amounts for CY 2019 will be: $341 for the 61st through 90th day of hospitalization in a benefit period; $682 for lifetime reserve days; and $170.50 for the 21st through 100th day of extended care services in a skilled nursing facility in a benefit period.

DATES: *Effective Date:* This notice is effective on January 1, 2019.

FOR FURTHER INFORMATION CONTACT: Yaminee Thaker, (410) 786–7921 for general information. Gregory J. Savord, (410) 786–1521 for case-mix analysis.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1813 of the Social Security Act (the Act) provides for an inpatient hospital deductible to be subtracted from the amount payable by Medicare for inpatient hospital services furnished to a beneficiary. It also provides for certain coinsurance amounts to be subtracted from the amounts payable by Medicare for inpatient hospital and extended care services. Section 1813(b)(2) of the Act requires the Secretary of the Department of Health and Human Services (the Secretary) to determine and publish each year the amount of the inpatient hospital deductible and the hospital and

extended care services coinsurance amounts applicable for services furnished in the following calendar year (CY).

II. Computing the Inpatient Hospital Deductible for CY 2019

Section 1813(b) of the Act prescribes the method for computing the amount of the inpatient hospital deductible. The inpatient hospital deductible is an amount equal to the inpatient hospital deductible for the preceding CY, adjusted by our best estimate of the payment-weighted average of the applicable percentage increases (as defined in section 1886(b)(3)(B) of the Act) used for updating the payment rates to hospitals for discharges in the fiscal year (FY) that begins on October 1 of the same preceding CY, and adjusted to reflect changes in real case-mix. The adjustment to reflect real case-mix is determined on the basis of the most recent case-mix data available. The amount determined under this formula is rounded to the nearest multiple of $4 (or, if midway between two multiples of $4, to the next higher multiple of $4).

Under section 1886(b)(3)(B)(i)(XX) of the Act, the percentage increase used to update the payment rates for FY 2019 for hospitals paid under the inpatient prospective payment system is the market basket percentage increase, otherwise known as the market basket update, reduced by 0.75 percentage points (see section 1886(b)(3)(B)(xii)(V) of the Act), and an adjustment based on changes in the economy-wide productivity (the multifactor productivity (MFP) adjustment) (see section 1886(b)(3)(B)(xi)(II) of the Act). Under section 1886(b)(3)(B)(viii) of the Act, for FY 2019, the applicable percentage increase for hospitals that do not submit quality data as specified by the Secretary is reduced by one quarter of the market basket update. We are estimating that after accounting for those hospitals receiving the lower market basket update in the payment-weighted average update, the calculated deductible will not be affected, since the majority of hospitals submit quality data and receive the full market basket update. Section 1886(b)(3)(B)(ix) of the Act requires that any hospital that is not a meaningful electronic health record (EHR) user (as defined in section 1886(n)(3) of the Act) will have three-quarters of the market basket update reduced by 100 percent for FY 2017 and each subsequent fiscal year. We are estimating that after accounting for these hospitals receiving the lower market basket update, the calculated deductible will not be affected, since the majority of hospitals are meaningful EHR users and are expected to receive the full market basket update.

Under section 1886 of the Act, the percentage increase used to update the payment rates for FY 2019 for hospitals excluded from the inpatient prospective payment system is as follows:

- The percentage increase for long term care hospitals is the market basket percentage increase reduced by 0.75 percentage points and the MFP adjustment (see sections 1886(m)(3)(A) and 1886(m)(4)(F) of the Act). In addition, these hospitals may also be impacted by the quality reporting adjustments and the site-neutral payment rates (see sections 1886(m)(5) and 1886(m)(6) of the Act).
- The percentage increase for inpatient rehabilitation facilities is the market basket percentage increase reduced by a productivity adjustment in accordance with section 1886(j)(3)(C)(ii)(I) of the Act, and further reduced by 0.75 percentage points in accordance with sections 1886(j)(3)(C)(ii)(II) and 1886(j)(3)(D)(v) of the Act. In addition, these hospitals may also be impacted by the quality reporting adjustments (see section 1886(j)(7)of the Act).
- The percentage increase used to update the payment rate for inpatient psychiatric facilities is the market basket percentage increase reduced by 0.75 percentage points and the MFP adjustment (see sections 1886(s)(2)(A)(i), 1886(s)(2)(A)(ii), and 1886(s)(3)(E) of the Act). In addition, these hospitals may also be impacted by the quality reporting adjustments (see section 1886(s)(4) of the Act).
- The percentage increase for other types of hospitals excluded from the inpatient prospective payment system (for example, cancer hospitals, children's hospitals, and hospitals located outside the 50 States, the District of Columbia, and Puerto Rico) is the market basket percentage increase (see section 1886(b)(3)(B)(ii)(VIII) of the Act).

The Inpatient Prospective Payment System market basket percentage increase for FY 2019 is 2.9 percent and the MFP adjustment is 0.8 percentage point, as announced in the final rule that appeared in the **Federal Register** on August 17, 2018 entitled, ''Hospital Inpatient Prospective Payment System for Acute Care Hospitals and the Long-Term Care Hospital Prospective Payment System and Fiscal Year 2019 Rates'' (83 FR 41144). Therefore, the percentage increase for hospitals paid under the inpatient prospective payment system that submit quality data and are meaningful EHR users is 1.35 percent (that is, the FY 2019 market basket update of 2.9 percent less the MFP adjustment of 0.8 percentage point and less 0.75 percentage point). The average payment percentage increase for hospitals excluded from the inpatient prospective payment system is 1.62 percent. This average includes long term care hospitals, inpatient rehabilitation facilities, and other hospitals excluded from the inpatient prospective payment system. Weighting these percentages in accordance with payment volume, our best estimate of the payment-weighted average of the increases in the payment rates for FY 2019 is 1.39 percent.

To develop the adjustment to reflect changes in real case-mix, we first calculated an average case-mix for each hospital that reflects the relative costliness of that hospital's mix of cases compared to those of other hospitals. We then computed the change in average case-mix for hospitals paid under the Medicare inpatient prospective payment system in FY 2018 compared to FY 2017. (We excluded from this calculation hospitals whose payments are not based on the inpatient prospective payment system because their payments are based on alternate prospective payment systems or reasonable costs.) We used Medicare bills from prospective payment hospitals that we received as of July 2018. These bills represent a total of about 7.3 million Medicare discharges for FY 2018 and provide the most recent case-mix data available at this time. Based on these bills, the change in average case-mix in FY 2018 is 1.33 percent. Based on these bills and past experience, we expect the overall case mix change to be 1.8 percent as the year progresses and more FY 2018 data become available.

Section 1813 of the Act requires that the inpatient hospital deductible be adjusted only by that portion of the case-mix change that is determined to be real. Real case-mix is that portion of case-mix that is due to changes in the mix of cases in the hospital and not due to coding optimization. Over the past several years, we have observed total case mix increases of about 0.5 percent per year and have assumed that they are real. Thus, since we do not have further information at this time, we expect that 0.5 percent of the 1.8 percent change in average case-mix for FY 2018 will be real.

Thus as stated above, the estimate of the payment-weighted average of the applicable percentage increases used for updating the payment rates is 1.39 percent, and the real case-mix adjustment factor for the deductible is 0.5 percent. Therefore, using the statutory formula as stated in section

1813(b) of the Act, we calculate the inpatient hospital deductible for services furnished in CY 2019 to be $1,364. This deductible amount is determined by multiplying $1,340 (the inpatient hospital deductible for CY 2018 (82 FR 55367)) by the payment-weighted average increase in the payment rates of 1.0139 multiplied by the increase in real case-mix of 1.005, which equals $1,365.42 and is rounded to $1,364.

III. Computing the Inpatient Hospital and Extended Care Services Coinsurance Amounts for CY 2019

The coinsurance amounts provided for in section 1813 of the Act are defined as fixed percentages of the inpatient hospital deductible for services furnished in the same CY. The increase in the deductible generates increases in the coinsurance amounts. For inpatient hospital and extended care services furnished in CY 2019, in accordance with the fixed percentages defined in the law, the daily coinsurance for the 61st through 90th day of hospitalization in a benefit period will be $341 (one-fourth of the inpatient hospital deductible as stated in section 1813(a)(1)(A) of the Act); the daily coinsurance for lifetime reserve days will be $682 (one-half of the inpatient hospital deductible as stated in section 1813(a)(1)(B) of the Act); and the daily coinsurance for the 21st through 100th day of extended care services in a skilled nursing facility (SNF) in a benefit period will be $170.50 (one-eighth of the inpatient hospital deductible as stated in section 1813(a)(3) of the Act).

IV. Cost to Medicare Beneficiaries

The Table below summarizes the deductible and coinsurance amounts for CYs 2018 and 2019, as well as the number of each that is estimated to be paid.

PART A DEDUCTIBLE AND COINSURANCE AMOUNTS FOR CALENDAR YEARS 2018 AND 2019

Type of cost sharing	Value		Number paid (in millions)	
	2018	2019	2018	2019
Inpatient hospital deductible	$1,340	$1,364	7.19	7.23
Daily coinsurance for 61st–90th Day	335	341	1.72	1.72
Daily coinsurance for lifetime reserve days	670	682	0.84	0.85
SNF coinsurance	167.50	170.50	33.15	33.34

The estimated total increase in costs to beneficiaries is about $390 million (rounded to the nearest $10 million) due to: (1) The increase in the deductible and coinsurance amounts; and (2) the increase in the number of deductibles and daily coinsurance amounts paid. We determine the increase in cost to beneficiaries by calculating the difference between the 2018 and 2019 deductible and coinsurance amounts multiplied by the estimated increase in the number of deductible and coinsurance amounts paid.

V. Waiver of Proposed Notice and Comment Period

Section 1813(b)(2) of the Act requires publication of the inpatient hospital deductible and all coinsurance amounts—the hospital and extended care services coinsurance amounts—between September 1 and September 15 of the year preceding the year to which they will apply. We ordinarily publish a notice of proposed rulemaking in the **Federal Register** and invite public comment prior to a rule taking effect in accordance with section 553(b) of the Administrative Procedure Act (APA) and section 1871 of the Act. However, we believe that the policies being publicized in this document do not constitute agency rulemaking. Rather, the statute requires that the agency determine and publish the inpatient hospital deductible and hospital and extended care services coinsurance amounts for each calendar year in accordance with the statutory formulae, and we are simply notifying the public of the changes to the Medicare Part A deductible and coinsurance amounts for CY 2019. To the extent any of the policies articulated in this document constitute interpretations of the statute's requirements or procedures that will be used to implement the statute's directive, they are interpretive rules, general statements of policy, and rules of agency organization, procedure, or practice, which are not subject to notice and comment rulemaking under the APA.

To the extent that notice and comment rulemaking would otherwise apply, we find good cause to waive this requirement. Under the APA, we may waive notice and public procedure if we find good cause that prior notice and comment are impracticable, unnecessary, or contrary to the public interest. We find that the procedure for notice and comment is unnecessary here, because this document does not propose to make any substantive changes to the policies or methodologies, but simply applies the formulae used to calculate the inpatient hospital deductible and hospital and extended care services coinsurance amounts as statutorily directed and we can exercise no discretion in following the formulae. Moreover, the statute establishes the time period for which the deductible and coinsurance amounts will apply, so we also do not have any discretion in that regard. Therefore, we find good cause to waive notice and comment procedures, if such procedures are required at all.

VI. Collection of Information Requirements

This document does not impose information collection requirements, that is, reporting, recordkeeping or third-party disclosure requirements. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

VII. Regulatory Impact Analysis

A. Statement of Need

Section 1813(b)(2) of the Act requires the Secretary to publish, between September 1 and September 15 of each year, the amounts of the inpatient hospital deductible and hospital and extended care services coinsurance applicable for services furnished in the following CY.

B. Overall Impact

We have examined the impacts of this notice in accordance with Executive Order 12866 on Regulatory Planning and Review (September 30, 1993), Executive Order 13563 on Improving Regulation and Regulatory Review (January 18, 2011), the Regulatory Flexibility Act (RFA) (September 19,

1980, Pub. L. 96–354), section 1102(b) of the Social Security Act, section 202 of the Unfunded Mandates Reform Act of 1995 (March 22, 1995; Pub. L. 104–4), Executive Order 13132 on Federalism (August 4, 1999), the Congressional Review Act (5 U.S.C. 804(2)), and Executive Order 13771 on Reducing Regulation and Controlling Regulatory Costs (January 30, 2017).

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action that is likely to result in a rule: (1) Having an annual effect on the economy of $100 million or more in any 1 year, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local or tribal governments or communities (also referred to as ''economically significant''); (2) creating a serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any 1 year). Although we do not consider this notice to constitute a substantive rule, this notice is economically significant under section 3(f)(1) of Executive Order 12866. As stated in section IV of this notice, we estimate that the total increase in costs to beneficiaries associated with this notice is about $390 million due to: (1) The increase in the deductible and coinsurance amounts; and (2) the increase in the number of deductibles and daily coinsurance amounts paid.

The RFA requires agencies to analyze options for regulatory relief of small entities, if a rule has a significant impact on a substantial number of small entities. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and small governmental jurisdictions. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of less than $7.5 million to $38.5 million in any 1 year (for details, see the Small Business Administration's website at *http://www.sba.gov/content/small-business-size-standards*). Individuals and states are not included in the definition of a small entity. This annual notice announces the Medicare Part A deductible and coinsurance amounts for CY 2019 and will have an impact on the Medicare beneficiaries. As a result, we are not preparing an analysis for the RFA because the Secretary has determined that this notice will not have a significant economic impact on a substantial number of small entities.

In addition, section 1102(b) of the Social Security Act requires us to prepare a RIA if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a metropolitan statistical area and has fewer than 100 beds. This annual notice announces the Medicare Part A deductible and coinsurance amounts for CY 2019 and will have an impact on the Medicare beneficiaries. As a result, we are not preparing an analysis for section 1102(b) of the Act because the Secretary has determined that this notice will not have a significant impact on the operations of a substantial number of small rural hospitals.

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of $100 million in 1995 dollars, updated annually for inflation. In 2018, that threshold is approximately $150 million. This notice does not impose mandates that will have a consequential effect of $150 million or more on state, local, or tribal governments or on the private sector.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on state and local governments, preempts state law, or otherwise has Federalism implications. This notice will not have a substantial direct effect on state or local governments, preempt state law, or otherwise have Federalism implications.

Executive Order 13771, titled ''Reducing Regulation and Controlling Regulatory Costs,'' was issued on January 30, 2017 (82 FR 9339, February 3, 2017). It has been determined that this notice is a transfer notice that does not impose more than de minimis costs and thus is not a regulatory action for the purposes of E.O. 13771.

Consistent with the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*), this notice has been transmitted to the Congress and the Comptroller General for review.

In accordance with the provisions of Executive Order 12866, this notice was reviewed by the Office of Management and Budget.

Although this notice does not constitute a substantive rule, we nevertheless prepared this Impact Analysis in the interest of ensuring that the impacts of this notice are fully understood.

Dated: October 3, 2018.

Seema Verma,

Administrator, Centers for Medicare & Medicaid Services.

Dated: October 11, 2018.

Alex M. Azar II,

Secretary, Department of Health and Human Services.

[FR Doc. 2018–22526 Filed 10–12–18; 11:15 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–8070–N]

RIN 0938–AT35

Medicare Program; Medicare Part B Monthly Actuarial Rates, Premium Rates, and Annual Deductible Beginning January 1, 2019

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice.

SUMMARY: This notice announces the monthly actuarial rates for aged (age 65 and over) and disabled (under age 65) beneficiaries enrolled in Part B of the Medicare Supplementary Medical Insurance (SMI) program beginning January 1, 2019. In addition, this notice announces the monthly premium for aged and disabled beneficiaries, the deductible for 2019, and the income-related monthly adjustment amounts to be paid by beneficiaries with modified adjusted gross income above certain threshold amounts. The monthly actuarial rates for 2019 are $264.90 for aged enrollees and $315.40 for disabled

enrollees. The standard monthly Part B premium rate for all enrollees for 2019 is $135.50, which is equal to 50 percent of the monthly actuarial rate for aged enrollees (or approximately 25 percent of the expected average total cost of Part B coverage for aged enrollees) plus the $3.00 repayment amount required under current law. (The 2018 standard premium rate was $134.00, which also included the $3.00 repayment amount.) The Part B deductible for 2019 is $185.00 for all Part B beneficiaries. If a beneficiary has to pay an income-related monthly adjustment, he or she will have to pay a total monthly premium of about 35, 50, 65, 80, or 85 percent of the total cost of Part B coverage plus a repayment amount of $4.20, $6.00, $7.80, $9.60, or $10.20, respectively.

DATES: *Effective Date:* January 1, 2019.

FOR FURTHER INFORMATION CONTACT: M. Kent Clemens, (410) 786–6391.

SUPPLEMENTARY INFORMATION:

I. Background

Part B is the voluntary portion of the Medicare program that pays all or part of the costs for the following: Physicians' services; outpatient hospital services; certain home health services; services furnished by rural health clinics, ambulatory surgical centers, and comprehensive outpatient rehabilitation facilities; and certain other medical and health services not covered by Medicare Part A, Hospital Insurance. Medicare Part B is available to individuals who are entitled to Medicare Part A, as well as to U.S. residents who have attained age 65 and are citizens and to aliens who were lawfully admitted for permanent residence and have resided in the United States for 5 consecutive years. Part B requires enrollment and payment of monthly premiums, as described in 42 CFR part 407, subpart B, and part 408, respectively. The premiums paid by (or on behalf of) all enrollees fund approximately one-fourth of the total incurred costs, and transfers from the general fund of the Treasury pay approximately three-fourths of these costs.

The Secretary of the Department of Health and Human Services (the Secretary) is required by section 1839 of the Social Security Act (the Act) to announce the Part B monthly actuarial rates for aged and disabled beneficiaries as well as the monthly Part B premium. The Part B annual deductible is included because its determination is directly linked to the aged actuarial rate.

The monthly actuarial rates for aged and disabled enrollees are used to determine the correct amount of general revenue financing per beneficiary each month. These amounts, according to actuarial estimates, will equal, respectively, one-half of the expected average monthly cost of Part B for each aged enrollee (age 65 or over) and one-half of the expected average monthly cost of Part B for each disabled enrollee (under age 65).

The Part B deductible to be paid by enrollees is also announced. Prior to the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) (Pub. L. 108–173), the Part B deductible was set in statute. After setting the 2005 deductible amount at $110, section 629 of the MMA (amending section 1833(b) of the Act) required that the Part B deductible be indexed beginning in 2006. The inflation factor to be used each year is the annual percentage increase in the Part B actuarial rate for enrollees age 65 and over. Specifically, the 2019 Part B deductible is calculated by multiplying the 2018 deductible by the ratio of the 2019 aged actuarial rate to the 2018 aged actuarial rate. The amount determined under this formula is then rounded to the nearest $1.

The monthly Part B premium rate to be paid by aged and disabled enrollees is also announced. (Although the costs to the program per disabled enrollee are different than for the aged, the statute provides that they pay the same premium amount.) Beginning with the passage of section 203 of the Social Security Amendments of 1972 (Pub. L. 92–603), the premium rate, which was determined on a fiscal-year basis, was limited to the lesser of the actuarial rate for aged enrollees, or the current monthly premium rate increased by the same percentage as the most recent general increase in monthly Title II Social Security benefits.

However, the passage of section 124 of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) (Pub. L. 97–248) suspended this premium determination process. Section 124 of TEFRA changed the premium basis to 50 percent of the monthly actuarial rate for aged enrollees (that is, 25 percent of program costs for aged enrollees). Section 606 of the Social Security Amendments of 1983 (Pub. L. 98–21), section 2302 of the Deficit Reduction Act of 1984 (DEFRA 84) (Pub. L. 98–369), section 9313 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA 85) (Pub. L. 99–272), section 4080 of the Omnibus Budget Reconciliation Act of 1987 (OBRA 87) (Pub. L. 100–203), and section 6301 of the Omnibus Budget Reconciliation Act of 1989 (OBRA 89) (Pub. L. 101–239) extended the provision that the premium be based on 50 percent of the monthly actuarial rate for aged enrollees (that is, 25 percent of program costs for aged enrollees). This extension expired at the end of 1990.

The premium rate for 1991 through 1995 was legislated by section 1839(e)(1)(B) of the Act, as added by section 4301 of the Omnibus Budget Reconciliation Act of 1990 (OBRA 90) (Pub. L. 101–508). In January 1996, the premium determination basis would have reverted to the method established by the 1972 Social Security Act Amendments. However, section 13571 of the Omnibus Budget Reconciliation Act of 1993 (OBRA 93) (Pub. L. 103–66) changed the premium basis to 50 percent of the monthly actuarial rate for aged enrollees (that is, 25 percent of program costs for aged enrollees) for 1996 through 1998.

Section 4571 of the Balanced Budget Act of 1997 (BBA 1997) (Pub. L. 105–33) permanently extended the provision that the premium be based on 50 percent of the monthly actuarial rate for aged enrollees (that is, 25 percent of program costs for aged enrollees).

The BBA 1997 included a further provision affecting the calculation of the Part B actuarial rates and premiums for 1998 through 2003. Section 4611 of the BBA 1997 modified the home health benefit payable under Part A for individuals enrolled in Part B. Under this section, beginning in 1998, expenditures for home health services not considered ''post-institutional'' are payable under Part B rather than Part A. However, section 4611(e)(1) of the BBA 1997 required that there be a transition from 1998 through 2002 for the aggregate amount of the expenditures transferred from Part A to Part B. Section 4611(e)(2) of the BBA 1997 also provided a specific yearly proportion for the transferred funds. The proportions were one-sixth for 1998, one-third for 1999, one-half for 2000, two-thirds for 2001, and five-sixths for 2002. For the purpose of determining the correct amount of financing from general revenues of the Federal Government, it was necessary to include only these transitional amounts in the monthly actuarial rates for both aged and disabled enrollees, rather than the total cost of the home health services being transferred.

Section 4611(e)(3) of the BBA 1997 also specified, for the purpose of determining the premium, that the monthly actuarial rate for enrollees age 65 and over be computed as though the transition would occur for 1998 through 2003 and that one-seventh of the cost be transferred in 1998, two-sevenths in 1999, three-sevenths in 2000, four-sevenths in 2001, five-sevenths in 2002,

and six-sevenths in 2003. Therefore, the transition period for incorporating this home health transfer into the premium was 7 years while the transition period for including these services in the actuarial rate was 6 years.

Section 811 of the MMA, which amended section 1839 of the Act, requires that, starting on January 1, 2007, the Part B premium a beneficiary pays each month be based on his or her annual income. Specifically, if a beneficiary's modified adjusted gross income is greater than the legislated threshold amounts (for 2019, $85,000 for a beneficiary filing an individual income tax return and $170,000 for a beneficiary filing a joint tax return), the beneficiary is responsible for a larger portion of the estimated total cost of Part B benefit coverage. In addition to the standard 25-percent premium, these beneficiaries now have to pay an income-related monthly adjustment amount. The MMA made no change to the actuarial rate calculation, and the standard premium, which will continue to be paid by beneficiaries whose modified adjusted gross income is below the applicable thresholds, still represents 25 percent of the estimated total cost to the program of Part B coverage for an aged enrollee. However, depending on income and tax filing status, a beneficiary can now be responsible for 35, 50, 65, 80, or 85 percent of the estimated total cost of Part B coverage, rather than 25 percent. Section 402 of the Medicare Access and CHIP Reauthorization Act of 2015 (MACRA) (Pub. L. 114–10) modified the income thresholds beginning with 2018, and section 53114 of the Bipartisan Budget Act of 2018 (BBA of 2018) (Pub. L. 115–123) further modified the income thresholds beginning with 2019. For years beginning with 2019, the BBA of 2018 established a new income threshold. If a beneficiary's modified adjusted gross income is greater than or equal to $500,000 for a beneficiary filing an individual income tax return and $750,000 for a beneficiary filing a joint tax return, the beneficiary is responsible for 85 percent of the estimated total cost of Part B coverage. The BBA of 2018 specified that these new income threshold levels will be inflation-adjusted beginning in 2028. The end result of the higher premium is that the Part B premium subsidy is reduced, and less general revenue financing is required, for beneficiaries with higher income because they are paying a larger share of the total cost with their premium. That is, the premium subsidy continues to be approximately 75 percent for beneficiaries with income below the applicable income thresholds, but it will be reduced for beneficiaries with income above these thresholds. The MMA specified that there be a 5-year transition period to reach full implementation of this provision. However, section 5111 of the Deficit Reduction Act of 2005 (DRA) (Pub. L. 109–171) modified the transition to a 3-year period.

Section 4732(c) of the BBA 1997 added section 1933(c) of the Act, which required the Secretary to allocate money from the Part B trust fund to the state Medicaid programs for the purpose of providing Medicare Part B premium assistance from 1998 through 2002 for the low-income Medicaid beneficiaries who qualify under section 1933 of the Act. This allocation, while not a benefit expenditure, was an expenditure of the trust fund and was included in calculating the Part B actuarial rates through 2002. For 2003 through 2015, the expenditure was made from the trust fund because the allocation was temporarily extended. However, because the extension occurred after the financing was determined, the allocation was not included in the calculation of the financing rates for these years. Section 211 of MACRA permanently extended this expenditure, which is included in the calculation of the Part B actuarial rates for 2016 and subsequent years.

Another provision affecting the calculation of the Part B premium is section 1839(f) of the Act, as amended by section 211 of the Medicare Catastrophic Coverage Act of 1988 (MCCA 88) (Pub. L. 100–360). (The Medicare Catastrophic Coverage Repeal Act of 1989 (Pub. L. 101–234) did not repeal the revisions to section 1839(f) of the Act made by MCCA 88.) Section 1839(f) of the Act, referred to as the ''hold-harmless'' provision, provides that if an individual is entitled to benefits under section 202 or 223 of the Act (the Old-Age and Survivors Insurance Benefit and the Disability Insurance Benefit, respectively) and has the Part B premium deducted from these benefit payments, the premium increase will be reduced, if necessary, to avoid causing a decrease in the individual's net monthly payment. This decrease in payment occurs if the increase in the individual's Social Security benefit due to the cost-of-living adjustment under section 215(i) of the Act is less than the increase in the premium. Specifically, the reduction in the premium amount applies if the individual is entitled to benefits under section 202 or 223 of the Act for November and December of a particular year and the individual's Part B premiums for December and the following January are deducted from the respective month's section 202 or 223 benefits. The hold-harmless provision does not apply to beneficiaries who are required to pay an income-related monthly adjustment amount.

A check for benefits under section 202 or 223 of the Act is received in the month following the month for which the benefits are due. The Part B premium that is deducted from a particular check is the Part B payment for the month in which the check is received. Therefore, a benefit check for November is not received until December, but December's Part B premium has been deducted from it.

Generally, if a beneficiary qualifies for hold-harmless protection, the reduced premium for the individual for that January and for each of the succeeding 11 months is the greater of either—

- The monthly premium for January reduced as necessary to make the December monthly benefits, after the deduction of the Part B premium for January, at least equal to the preceding November's monthly benefits, after the deduction of the Part B premium for December; or
- The monthly premium for that individual for that December.

In determining the premium limitations under section 1839(f) of the Act, the monthly benefits to which an individual is entitled under section 202 or 223 of the Act do not include retroactive adjustments or payments and deductions on account of work. Also, once the monthly premium amount is established under section 1839(f) of the Act, it will not be changed during the year even if there are retroactive adjustments or payments and deductions on account of work that apply to the individual's monthly benefits.

Individuals who have enrolled in Part B late or who have re-enrolled after the termination of a coverage period are subject to an increased premium under section 1839(b) of the Act. The increase is a percentage of the premium and is based on the new premium rate before any reductions under section 1839(f) of the Act are made.

Section 1839 of the Act, as amended by section 601(a) of the Bipartisan Budget Act of 2015 (Pub. L. 114–74), specified that the 2016 actuarial rate for enrollees age 65 and older be determined as if the hold-harmless provision did not apply. The premium revenue that was lost by using the resulting lower premium (excluding the forgone income-related premium revenue) was replaced by a transfer of general revenue from the Treasury,

which will be repaid over time to the general fund.

Starting in 2016, in order to repay the balance due (which includes the transfer amount and the forgone income-related premium revenue), the Part B premium otherwise determined will be increased by $3.00. These repayment amounts will be added to the Part B premium otherwise determined each year and paid back to the general fund of the Treasury and will continue until the balance due is paid back.

High-income enrollees pay the $3.00 plus an additional $1.20, $3.00, $4.80, $6.60, or $7.20 in repayment as part of the income-related monthly adjustment amount (IRMAA) premium dollars, which reduce (dollar for dollar) the amount of general revenue received by Part B from the general fund of the Treasury. Because of this general revenue offset, the repayment IRMAA premium dollars are not included in the direct repayments made to the general fund of the Treasury from Part B in order to avoid a double repayment. (Only the $3.00 monthly repayment amounts are included in the direct repayments).

These repayment amounts will continue until the total amount collected is equal to the beginning balance due. (In the final year of the repayment, the additional amounts may be modified to avoid an overpayment.) The repayment amounts (excluding the repayment amounts for high-income enrollees) are subject to the hold-harmless provision. The beginning balance due was $9,066,409,000, consisting of $1,625,761,000 in forgone income-related premium revenue plus a transfer amount of $7,440,648,000. An estimated $2,628,512,000 will have been collected for repayment to the general fund by the end of 2018.

II. Provisions of the Notice

A. Notice of Medicare Part B Monthly Actuarial Rates, Monthly Premium Rates, and Annual Deductible

The Medicare Part B monthly actuarial rates applicable for 2019 are $264.90 for enrollees age 65 and over and $315.40 for disabled enrollees under age 65. In section II.B. of this notice, we present the actuarial assumptions and bases from which these rates are derived. The Part B standard monthly premium rate for all enrollees for 2019 is $135.50.

The following are the 2019 Part B monthly premium rates to be paid by (or on behalf of) beneficiaries who file either individual tax returns (and are single individuals, heads of households, qualifying widows or widowers with dependent children, or married individuals filing separately who lived apart from their spouses for the entire taxable year), or joint tax returns.

Beneficiaries who file individual tax returns with income:	Beneficiaries who file joint tax returns with income:	Income-related monthly adjustment amount	Total monthly premium amount
Less than or equal to $85,000	Less than or equal to $170,000	$0.00	$135.50
Greater than $85,000 and less than or equal to $107,000.	Greater than $170,000 and less than or equal to $214,000.	54.10	189.60
Greater than $107,000 and less than or equal to $133,500.	Greater than $214,000 and less than or equal to $267,000.	135.40	270.90
Greater than $133,500 and less than or equal to $160,000.	Greater than $267,000 and less than or equal to $320,000.	216.70	352.20
Greater than $160,000 and less than $500,000	Greater than $320,000 and less than $750,000	297.90	433.40
Greater than or equal to $500,000	Greater than or equal to $750,000	325.00	460.50

In addition, the monthly premium rates to be paid by (or on behalf of) beneficiaries who are married and lived with their spouses at any time during the taxable year, but who file separate tax returns from their spouses, are as follows:

Beneficiaries who are married and lived with their spouses at any time during the year, but who file separate tax returns from their spouses:	Income-related monthly adjustment amount	Total monthly premium amount
Less than or equal to $85,000	$0.00	$135.50
Greater than $85,000 and less than $415,000	297.90	433.40
Greater than or equal to $415,000	325.00	460.50

The Part B annual deductible for 2019 is $185.00 for all beneficiaries.

B. Statement of Actuarial Assumptions and Bases Employed in Determining the Monthly Actuarial Rates and the Monthly Premium Rate for Part B Beginning January 2019

The actuarial assumptions and bases used to determine the monthly actuarial rates and the monthly premium rates for Part B are established by the Centers for Medicare & Medicaid Services Office of the Actuary. The estimates underlying these determinations are prepared by actuaries meeting the qualification standards and following the actuarial standards of practice established by the Actuarial Standards Board.

1. Actuarial Status of the Part B Account in the Supplementary Medical Insurance Trust Fund

Under section 1839 of the Act, the starting point for determining the standard monthly premium is the amount that would be necessary to finance Part B on an incurred basis. This is the amount of income that would be sufficient to pay for services furnished during that year (including associated administrative costs) even though payment for some of these services will not be made until after the close of the year. The portion of income required to cover benefits not paid until after the close of the year is added to the trust fund and used when needed.

The premium rates are established prospectively and are, therefore, subject to projection error. Additionally, legislation enacted after the financing

was established, but effective for the period in which the financing is set, may affect program costs. As a result, the income to the program may not equal incurred costs. Therefore, trust fund assets must be maintained at a level that is adequate to cover an appropriate degree of variation between actual and projected costs, and the amount of incurred, but unpaid, expenses. Numerous factors determine what level of assets is appropriate to cover variation between actual and projected costs. The three most important of these factors are (1) the difference from prior years between the actual performance of the program and estimates made at the time financing was established; (2) the likelihood and potential magnitude of expenditure changes resulting from enactment of legislation affecting Part B costs in a year subsequent to the establishment of financing for that year; and (3) the expected relationship between incurred and cash expenditures. These factors are analyzed on an ongoing basis, as the trends can vary over time.

Table 1 summarizes the estimated actuarial status of the trust fund as of the end of the financing period for 2017 and 2018.

TABLE 1—ESTIMATED ACTUARIAL STATUS OF THE PART B ACCOUNT IN THE SUPPLEMENTARY MEDICAL INSURANCE TRUST FUND AS OF THE END OF THE FINANCING PERIOD

Financing period ending	Assets ($ in millions)	Liabilities ($ in millions)	Assets less liabilities ($ in millions)
December 31, 2017	79,882	30,008	49,873
December 31, 2018	96,940	34,298	62,641

2. Monthly Actuarial Rate for Enrollees Age 65 and Older

The monthly actuarial rate for enrollees age 65 and older is one-half of the sum of monthly amounts for (1) the projected cost of benefits; and (2) administrative expenses for each enrollee age 65 and older, after adjustments to this sum to allow for interest earnings on assets in the trust fund and an adequate contingency margin. The contingency margin is an amount appropriate to provide for possible variation between actual and projected costs and to amortize any surplus assets or unfunded liabilities.

The monthly actuarial rate for enrollees age 65 and older for 2019 is determined by first establishing per enrollee costs by type of service from program data through 2017 and then projecting these costs for subsequent years. The projection factors used for financing periods from January 1, 2016 through December 31, 2019 are shown in Table 2.

As indicated in Table 3, the projected per enrollee amount required to pay for one-half of the total of benefits and administrative costs for enrollees age 65 and over for 2019 is $263.47. Based on current estimates, the assets associated with the aged Medicare beneficiaries at the end of 2018 are not large enough to provide a fully sufficient 2019 contingency reserve, which is necessary to cover the amount of incurred, but unpaid, expenses and to provide for a significant degree of variation between actual and projected costs. Thus, a positive contingency margin is needed. The monthly actuarial rate of $264.90 provides an adjustment of $3.74 for a contingency margin and −$2.31 for interest earnings.

Starting in 2011, manufacturers and importers of brand-name prescription drugs pay a fee that is allocated to the Part B account of the SMI trust fund. For 2019, the total amount of these brand-name drug fees is estimated to be $2.8 billion. The contingency margin has been reduced to account for this additional revenue.

The traditional goal for the Part B reserve has been that assets minus liabilities at the end of a year should represent between 15 and 20 percent of the following year's total incurred expenditures. To accomplish this goal, a 17-percent reserve ratio, which is a fully adequate contingency reserve level, has been the normal target used to calculate the Part B premium. Assets associated with the aged Medicare beneficiaries at the end of 2018 are expected to be below the fully adequate level. The financing rates for 2019 are set to restore the assets in the Part B account to a fully adequate level by the end of 2019 under current law. The actuarial rate of $264.90 per month for aged beneficiaries, as announced in this notice for 2019, reflects the combined effect of the factors previously described and the projected assumptions listed in Table 2.

3. Monthly Actuarial Rate for Disabled Enrollees

Disabled enrollees are those persons under age 65 who are enrolled in Part B because of entitlement to Social Security disability benefits for more than 24 months or because of entitlement to Medicare under the end-stage renal disease (ESRD) program. Projected monthly costs for disabled enrollees (other than those with ESRD) are prepared in a manner parallel to the projection for the aged using appropriate actuarial assumptions (see Table 2). Costs for the ESRD program are projected differently because of the different nature of services offered by the program.

As shown in Table 4, the projected per enrollee amount required to pay for one-half of the total of benefits and administrative costs for disabled enrollees for 2019 is $325.15. The monthly actuarial rate of $315.40 also provides an adjustment of −$2.90 for interest earnings and −$6.85 for a contingency margin, reflecting the same factors described previously for the aged actuarial rate at magnitudes appropriate to the disabled rate determination. Based on current estimates, the assets associated with the disabled Medicare beneficiaries at the end of 2019 are sufficient to cover the amount of incurred, but unpaid, expenses and to provide for a significant degree of variation between actual and projected costs. A negative contingency margin is needed to maintain assets at an appropriate level.

The actuarial rate of $315.40 per month for disabled beneficiaries, as announced in this notice for 2019, reflects the combined net effect of the factors described previously for aged beneficiaries and the projection assumptions listed in Table 2.

4. Sensitivity Testing

Several factors contribute to uncertainty about future trends in medical care costs. It is appropriate to test the adequacy of the rates using alternative cost growth rate assumptions. The results of those assumptions are shown in Table 5. One set represents increases that are higher and, therefore, more pessimistic than the current estimate. The other set

represents increases that are lower and, therefore, more optimistic than the current estimate. The values for the alternative assumptions were determined from a statistical analysis of the historical variation in the respective increase factors.

As indicated in Table 5, the monthly actuarial rates would result in an excess of assets over liabilities of $69,255 million by the end of December 2019 under the cost growth rate assumptions shown in Table 2 and assuming that the provisions of current law are fully implemented. This result amounts to 17.6 percent of the estimated total incurred expenditures for the following year.

Assumptions that are somewhat more pessimistic (and that therefore test the adequacy of the assets to accommodate projection errors) produce a surplus of $17,717 million by the end of December 2019 under current law, which amounts to 4.0 percent of the estimated total incurred expenditures for the following year. Under fairly optimistic assumptions, the monthly actuarial rates would result in a surplus of $122,576 million by the end of December 2019, or 35.7 percent of the estimated total incurred expenditures for the following year.

The sensitivity analysis indicates that the premium and general revenue financing established for 2019, together with existing Part B account assets, would be adequate to cover estimated Part B costs for 2019 under current law should actual costs prove to be somewhat greater than expected.

5. Premium Rates and Deductible

As determined in accordance with section 1839 of the Act, the following are the 2019 Part B monthly premium rates to be paid by beneficiaries who file either individual tax returns (and are single individuals, heads of households, qualifying widows or widowers with dependent children, or married individuals filing separately who lived apart from their spouses for the entire taxable year), or joint tax returns.

Beneficiaries who file individual tax returns with income:	Beneficiaries who file joint tax returns with income:	Income-related monthly adjustment amount	Total monthly premium amount
Less than or equal to $85,000	Less than or equal to $170,000	$0.00	$135.50
Greater than $85,000 and less than or equal to $107,000.	Greater than $170,000 and less than or equal to $214,000.	54.10	189.60
Greater than $107,000 and less than or equal to $133,500.	Greater than $214,000 and less than or equal to $267,000.	135.40	270.90
Greater than $133,500 and less than or equal to $160,000.	Greater than $267,000 and less than or equal to $320,000.	216.70	352.20
Greater than $160,000 and less than $500,000	Greater than $320,000 and less than $750,000	297.90	433.40
Greater than or equal to $500,000	Greater than or equal to $750,000	325.00	460.50

In addition, the monthly premium rates to be paid by beneficiaries who are married and lived with their spouses at any time during the taxable year, but who file separate tax returns from their spouses, are as follows:

Beneficiaries who are married and lived with their spouses at any time during the year, but who file separate tax returns from their spouses:	Income-related monthly adjustment amount	Total monthly premium amount
Less than or equal to $85,000	$0.00	$135.50
Greater than $85,000 and less than $415,000	297.90	433.40
Greater than or equal to $415,000	325.00	460.50

TABLE 2—PROJECTION FACTORS [1]
12-MONTH PERIODS ENDING DECEMBER 31 OF 2016–2019

Calendar year	Physicians' services	Durable medical equipment	Carrier lab [2]	Other carrier services [3]	Outpatient hospital	Home health agency	Hospital lab [4]	Other inter-mediary services [5]	Managed care
Aged:									
2016	−1.3%	−7.2%	−2.2%	6.8%	5.3%	−0.9%	3.1%	2.7%	3.3%
2017	0.3	−5.7	3.4	6.2	7.1	0.5	0.5	4.0	2.9
2018	1.7	11.3	4.9	6.0	7.8	3.1	2.0	7.4	6.8
2019	3.7	6.6	−3.7	5.4	7.5	4.6	−5.5	4.9	5.3
Disabled:									
2016	−1.8	−6.0	−14.8	5.7	4.5	−3.0	3.1	6.9	5.7
2017	0.5	0.5	−0.2	8.0	6.4	0.0	−0.2	7.9	3.4
2018	3.3	14.4	6.1	9.3	9.6	7.7	4.3	10.6	6.8
2019	3.6	6.5	−3.8	5.9	7.2	4.4	−5.6	5.0	5.4

[1] All values for services other than managed care are per fee-for-service enrollee. Managed care values are per managed care enrollee.
[2] Includes services paid under the lab fee schedule furnished in the physician's office or an independent lab.
[3] Includes physician-administered drugs, ambulatory surgical center facility costs, ambulance services, parenteral and enteral drug costs, supplies, etc.
[4] Includes services paid under the lab fee schedule furnished in the outpatient department of a hospital.
[5] Includes services furnished in dialysis facilities, rural health clinics, federally qualified health centers, rehabilitation and psychiatric hospitals, etc.

TABLE 3—DERIVATION OF MONTHLY ACTUARIAL RATE FOR ENROLLEES AGE 65 AND OVER FOR FINANCING PERIODS ENDING DECEMBER 31, 2016 THROUGH DECEMBER 31, 2019

	CY 2016	CY 2017	CY 2018	CY 2019
Covered services (at level recognized):				
Physician fee schedule	$73.60	$72.32	$71.42	$73.51
Durable medical equipment	5.76	5.30	5.73	6.06
Carrier lab [1]	4.19	4.22	4.31	4.11
Other carrier services [2]	23.76	24.62	25.40	26.54
Outpatient hospital	45.07	47.05	49.36	52.60
Home health	9.43	9.24	9.27	9.61
Hospital lab [3]	2.30	2.25	2.23	2.09
Other intermediary services [4]	17.53	17.78	18.58	19.33
Managed care	83.23	89.43	99.69	106.33
Total services	264.86	272.20	285.99	300.17
Cost sharing:				
Deductible	−6.35	−7.00	−7.00	−7.08
Coinsurance	−27.72	−27.24	−27.75	−28.80
Sequestration of benefits	−4.61	−4.75	−5.02	−5.28
Health information technology payment incentives	−0.56	−0.13	0.12	0.00
Total benefits	225.61	233.08	246.34	259.01
Administrative expenses	3.37	4.48	4.66	4.46
Incurred expenditures	228.98	237.56	251.00	263.47
Value of interest	−1.50	−1.61	−1.85	−2.31
Contingency margin for projection error and to amortize the surplus or deficit	10.12	25.95	12.75	3.74
Monthly actuarial rate	237.60	261.90	261.90	264.90

[1] Includes services paid under the lab fee schedule furnished in the physician's office or an independent lab.
[2] Includes physician-administered drugs, ambulatory surgical center facility costs, ambulance services, parenteral and enteral drug costs, supplies, etc.
[3] Includes services paid under the lab fee schedule furnished in the outpatient department of a hospital.
[4] Includes services furnished in dialysis facilities, rural health clinics, federally qualified health centers, rehabilitation and psychiatric hospitals, etc.

TABLE 4—DERIVATION OF MONTHLY ACTUARIAL RATE FOR DISABLED ENROLLEES FOR FINANCING PERIODS ENDING DECEMBER 31, 2016 THROUGH DECEMBER 31, 2019

	CY 2016	CY 2017	CY 2018	CY 2019
Covered services (at level recognized):				
Physician fee schedule	$77.83	$76.10	$74.44	$75.61
Durable medical equipment	11.32	11.03	11.90	12.40
Carrier lab [1]	6.03	5.85	5.89	5.54
Other carrier services [2]	25.96	27.14	28.09	29.05
Outpatient hospital	62.94	65.21	67.69	71.01
Home health	7.50	7.25	7.35	7.49
Hospital lab [3]	2.82	2.74	2.71	2.51
Other intermediary services [4]	46.40	47.33	51.80	52.98
Managed care	81.47	90.48	107.84	117.87
Total services	322.27	333.12	357.72	374.46
Cost sharing:				
Deductible	−5.97	−6.57	−6.58	−6.66
Coinsurance	−41.86	−41.34	−42.37	−43.30
Sequestration of benefits	−5.49	−5.69	−6.17	−6.48
Health information technology payment incentives	−0.58	−0.14	0.12	0.00
Total benefits	268.37	279.38	302.73	318.02
Administrative expenses	3.99	5.38	7.27	7.14
Incurred expenditures	272.36	284.75	310.00	325.15
Value of interest	−2.55	−3.01	−3.14	−2.90
Contingency margin for projection error and to amortize the surplus or deficit	12.79	−27.54	−11.86	−6.85
Monthly actuarial rate	282.60	254.20	295.00	315.40

[1] Includes services paid under the lab fee schedule furnished in the physician's office or an independent lab.
[2] Includes physician-administered drugs, ambulatory surgical center facility costs, ambulance services, parenteral and enteral drug costs, supplies, etc.
[3] Includes services paid under the lab fee schedule furnished in the outpatient department of a hospital.

[4] Includes services furnished in dialysis facilities, rural health clinics, federally qualified health centers, rehabilitation and psychiatric hospitals, etc.

TABLE 5—ACTUARIAL STATUS OF THE PART B ACCOUNT IN THE SMI TRUST FUND UNDER THREE SETS OF ASSUMPTIONS FOR FINANCING PERIODS THROUGH DECEMBER 31, 2019

	As of December 31		
	2017	2018	2019
Actuarial status (in millions):			
Assets	$79,882	$96,940	$105,203
Liabilities	$30,008	$34,298	$35,948
Assets less liabilities	$49,873	$62,641	$69,255
Ratio [1]	14.6%	17.1%	17.6%
Low-cost projection:			
Actuarial status (in millions):			
Assets	$79,882	$115,004	$157,034
Liabilities	$30,008	$32,291	$34,458
Assets less liabilities	$49,873	$82,713	$122,576
Ratio [1]	15.6%	24.9%	35.7%
High-cost projection:			
Actuarial status (in millions):			
Assets	$79,882	$79,849	$55,445
Liabilities	$30,008	$36,197	$37,728
Assets less liabilities	$49,873	$43,651	$17,717
Ratio [1]	13.9%	10.8%	4.0%

[1] Ratio of assets less liabilities at the end of the year to the total incurred expenditures during the following year, expressed as a percent.

III. Collection of Information Requirements

This document does not impose information collection requirements—that is, reporting, recordkeeping, or third-party disclosure requirements. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

IV. Regulatory Impact Analysis

A. Statement of Need

Section 1839 of the Act requires us to annually announce (that is, by September 30th of each year) the Part B monthly actuarial rates for aged and disabled beneficiaries as well as the monthly Part B premium. We also announce the Part B annual deductible because its determination is directly linked to the aged actuarial rate.

B. Overall Impact

We have examined the impacts of this notice in accordance with Executive Order 12866 on Regulatory Planning and Review (September 30, 1993), Executive Order 13563 on Improving Regulation and Regulatory Review (January 18, 2011), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), section 1102(b) of the Social Security Act, section 202 of the Unfunded Mandates Reform Act of 1995 (March 22, 1995, Pub. L. 104–4), Executive Order 13132 on Federalism (August 4, 1999), and the Congressional Review Act (5 U.S.C. 804(2)).

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any one year). The 2019 standard Part B premium rate of $135.50 is $1.50 higher than the 2018 premium of $134.00. We estimate that this premium increase, for the approximately 56 million Part B enrollees in 2019, will have an annual effect on the economy of $100 million or more. Although we do not consider this notice to constitute a substantive rule, this notice is economically significant under section 3(f)(1) of Executive Order 12866.

As discussed earlier, this notice announces that the monthly actuarial rates applicable for 2019 are $264.90 for enrollees age 65 and over and $315.40 for disabled enrollees under age 65. It also announces the 2019 monthly Part B premium rates to be paid by beneficiaries who file either individual tax returns (and are single individuals, heads of households, qualifying widows or widowers with dependent children, or married individuals filing separately who lived apart from their spouses for the entire taxable year), or joint tax returns.

Beneficiaries who file individual tax returns with income:	Beneficiaries who file joint tax returns with income:	Income-related monthly adjustment amount	Total monthly premium amount
Less than or equal to $85,000	Less than or equal to $170,000	$0.00	$135.50
Greater than $85,000 and less than or equal to $107,000.	Greater than $170,000 and less than or equal to $214,000.	54.10	189.60
Greater than $107,000 and less than or equal to $133,500.	Greater than $214,000 and less than or equal to $267,000.	135.40	270.90
Greater than $133,500 and less than or equal to $160,000.	Greater than $267,000 and less than or equal to $320,000.	216.70	352.20
Greater than $160,000 and less than $500,000	Greater than $320,000 and less than $750,000	297.90	433.40

Beneficiaries who file individual tax returns with income:	Beneficiaries who file joint tax returns with income:	Income-related monthly adjustment amount	Total monthly premium amount
Greater than or equal to $500,000	Greater than or equal to $750,000	325.00	460.50

In addition, the monthly premium rates to be paid by beneficiaries who are married and lived with their spouses at any time during the taxable year, but who file separate tax returns from their spouses, are also announced and listed in the following chart:

Beneficiaries who are married and lived with their spouses at any time during the year, but who file separate tax returns from their spouses:	Income-related monthly adjustment amount	Total monthly premium amount
Less than or equal to $85,000	$0.00	$135.50
Greater than $85,000 and less than $415,000	297.90	433.40
Greater than or equal to $415,000	325.00	460.50

The RFA requires agencies to analyze options for regulatory relief of small businesses, if a rule has a significant impact on a substantial number of small entities. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and small governmental jurisdictions. Individuals and states are not included in the definition of a small entity. This notice announces the monthly actuarial rates for aged (age 65 and over) and disabled (under 65) beneficiaries enrolled in Part B of the Medicare SMI program beginning January 1, 2019. Also, this notice announces the monthly premium for aged and disabled beneficiaries as well as the income-related monthly adjustment amounts to be paid by beneficiaries with modified adjusted gross income above certain threshold amounts. As a result, we are not preparing an analysis for the RFA because the Secretary has determined that this notice will not have a significant economic impact on a substantial number of small entities.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 100 beds. As we discussed previously, we are not preparing an analysis for section 1102(b) of the Act because the Secretary has determined that this notice will not have a significant effect on a substantial number of small rural hospitals.

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any one year of $100 million in 1995 dollars, updated annually for inflation. In 2018, that threshold is approximately $150 million. Part B enrollees who are also enrolled in Medicaid have their monthly Part B premiums paid by Medicaid. The cost to each state Medicaid program from the 2019 premium increase is estimated to be less than the threshold. This notice does not impose mandates that will have a consequential effect of the threshold amount or more on state, local, or tribal governments or on the private sector.

Executive Order 13132 establishes certain requirements that an agency must meet when it publishes a proposed rule (and subsequent final rule) that imposes substantial direct compliance costs on state and local governments, preempts state law, or otherwise has Federalism implications. We have determined that this notice does not significantly affect the rights, roles, and responsibilities of states. Accordingly, the requirements of Executive Order 13132 do not apply to this notice.

Executive Order 13771, titled ''Reducing Regulation and Controlling Regulatory Costs,'' was issued on January 30, 2017 (82 FR 9339, February 3, 2017). It has been determined that this notice is a transfer notice that does not impose more than de minimis costs and thus is not a regulatory action for the purposes of E.O. 13771.

In accordance with the provisions of Executive Order 12866, this notice was reviewed by the Office of Management and Budget.

V. Waiver of Proposed Notice and Comment Period

Section 553(b) of the Administrative Procedure Act (APA) and section 1871 of the Act require a notice of proposed rulemaking prior to a rule taking effect. However, we believe that the policies published in this document do not constitute agency rulemaking. Rather, the Act specifies the formulas used to calculate the Part B premiums, and we are notifying the public of the changes to the Medicare Part B premiums for CY 2019 in accordance with the statutorily directed formulas. To the extent that any of the policies articulated in this document constitute interpretations of the statute's requirements or procedures that will be used to implement the statute's directive, they are interpretive rules, general statements of policy, and rules of agency organization, procedure, or practice, which are not subject to notice and comment rulemaking under the APA.

To the extent that notice and comment rulemaking would otherwise apply, we find good cause to waive this requirement. Under the APA, we may waive notice and public procedure if we find, for good cause, that prior notice and comment are impracticable, unnecessary, or contrary to the public interest. The statute establishes the time period for which the premium rates will apply, and delaying publication of the Part B premium rate such that it would not be published before that time would be contrary to the public interest. Moreover, we find that notice and comment are unnecessary because the formulas used to calculate the Part B premiums are statutorily directed. Therefore, we find good cause to waive notice and comment procedures, if such procedures are required at all.

Dated: October 3, 2018.

Seema Verma,

Administrator, Centers for Medicare & Medicaid Services.

Dated: October 11, 2018.

Alex M. Azar II,

Secretary, Department of Health and Human Services.

[FR Doc. 2018–22530 Filed 10–12–18; 11:15 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. FDA–2017–E–6371 and FDA–2017–E–6372]

Determination of Regulatory Review Period for Purposes of Patent Extension; TREMFYA

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) has determined the regulatory review period for TREMFYA and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of applications to the Director of the U.S. Patent and Trademark Office (USPTO), Department of Commerce, for the extension of a patent which claims that human biological product.

DATES: Anyone with knowledge that any of the dates as published (see the **SUPPLEMENTARY INFORMATION** section) are incorrect may submit either electronic or written comments and ask for a redetermination by December 17, 2018. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by April 15, 2019. See ''Petitions'' in the **SUPPLEMENTARY INFORMATION** section for more information.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before December 17, 2018. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of December 17, 2018. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket Nos. FDA–2017–E–6371 and FDA–2017–E–6372 for ''Determination of Regulatory Review Period for Purposes of Patent Extension; TREMFYA.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with § 10.20 (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: Beverly Friedman, Office of Regulatory Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6250, Silver Spring, MD 20993, 301–796–3600.

SUPPLEMENTARY INFORMATION:

I. Background

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human biological products, the testing phase begins when the exemption to permit the clinical investigations of the biological product becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human biological product and continues until FDA grants permission to market the biological product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of USPTO may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human biological product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human biologic product TREMFYA (guselkumab). TREMFYA is indicated for the treatment of adult patients with moderate-to-severe plaque psoriasis who are candidates for systemic therapy or phototherapy. Subsequent to this approval, the USPTO received patent term restoration applications for TREMFYA (U.S. Patent Nos.7,935,344 and 7,993,645) from Janssen Biotech, Inc., and the USPTO requested FDA's assistance in determining the patents' eligibility for patent term restoration. In a letter dated January 9, 2018, FDA advised the USPTO that this human biological product had undergone a regulatory review period and that the approval of TREMFYA represented the first permitted commercial marketing or use of the product. Thereafter, the USPTO requested that FDA determine the product's regulatory review period.

II. Determination of Regulatory Review Period

FDA has determined that the applicable regulatory review period for TREMFYA is 2,968 days. Of this time, 2,728 days occurred during the testing phase of the regulatory review period, while 240 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)) became effective:* May 30, 2009. The applicant claims April 30, 2009, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was May 30, 2009, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human biological product under section 351 of the Public Health Service Act (42 U.S.C. 262):* November 16, 2016. FDA has verified the applicant's claim that the biologics license application (BLA) for TREMFYA (BLA 761061) was initially submitted on November 16, 2016.

3. *The date the application was approved:* July 13, 2017. FDA has verified the applicant's claim that BLA 761061 was approved on July 13, 2017.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the USPTO applies several statutory limitations in its calculations of the actual period for patent extension. In its applications for patent extension, this applicant seeks 1,252 days or 1,203 days of patent term extension.

III. Petitions

Anyone with knowledge that any of the dates as published are incorrect may submit either electronic or written comments and, under 21 CFR 60.24, ask for a redetermination (see **DATES**). Furthermore, as specified in § 60.30 (21 CFR 60.30), any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must comply with all the requirements of § 60.30, including but not limited to: Must be timely (see **DATES**), must be filed in accordance with § 10.20, must contain sufficient facts to merit an FDA investigation, and must certify that a true and complete copy of the petition has been served upon the patent applicant. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Submit petitions electronically to *https://www.regulations.gov* at Docket No. FDA–2013–S–0610. Submit written petitions (two copies are required) to the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Dated: October 11, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–22571 Filed 10–16–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–N–3516]

Agency Information Collection Activities; Proposed Collection; Comment Request; Disease Awareness and Prescription Drug Promotion on Television

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information and to allow 60 days for public comment in response to the notice. This notice solicits comments on research entitled, ''Disease Awareness and Prescription Drug Promotion on Television.''

DATES: Submit either electronic or written comments on the collection of information by December 17, 2018.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before December 17, 2018. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of December 17, 2018. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note

that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2018–N–3516 for ''Disease Awareness and Prescription Drug Promotion on Television.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• *Confidential Submissions*—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

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

FOR FURTHER INFORMATION CONTACT: Ila S. Mizrachi, Office of Operations, Food and Drug Administration, Three White Flint North, 10:00 a.m.–12:00 p.m., 11601 Landsdown St., North Bethesda, MD 20852, 301–796–7726, *PRAStaff@fda.hhs.gov.* For copies of the questionnaire contact: Office of Prescription Drug Promotion (OPDP) Research Team, *DTCresearch@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Disease Awareness and Prescription Drug Promotion on Television (OMB Control Number 0910—NEW)

Section 1701(a)(4) of the Public Health Service Act (42 U.S.C. 300u(a)(4)) authorizes FDA to conduct research relating to health information. Section 1003(d)(2)(C) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 393(d)(2)(C)) authorizes FDA to conduct research relating to drugs and other FDA regulated products in carrying out the provisions of the FD&C Act.

The FDA's Center for Drug Evaluation and Research (CDER), Office of Prescription Drug Promotion (OPDP) is responsible for ensuring that prescription drug promotional materials are truthful, balanced, and accurately communicated. This project is being proposed as part of the research program of OPDP. OPDP's research program supports this mission by providing scientific evidence to help ensure that our policies related to prescription drug promotion will have the greatest benefit to public health. Toward that end, we have consistently conducted research to evaluate the aspects of prescription drug promotion that we believe are most central to our mission, focusing in particular on three main topic areas: Advertising features, including content and format; target populations; and research quality. Through the evaluation of advertising features we assess how elements such as graphics, format, and disease and product characteristics impact the communication and understanding of prescription drug risks and benefits; focusing on target populations allows us to evaluate how understanding of prescription drug risks and benefits may vary as a function of audience; and our focus on research quality aims at maximizing the quality of research data through analytical methodology development and investigation of sampling and response issues. This study falls under the topic of both target populations and advertising features.

Because we recognize the strength of data and the confidence in the robust nature of the findings is improved through the results of multiple converging studies, we continue to develop evidence to inform our thinking. We evaluate the results from our studies within the broader context of research and findings from other sources, and this larger body of knowledge collectively informs our

policies as well as our research program. Our research is documented on our homepage, which can be found at: *https://www.fda.gov/aboutfda/centersoffices/officeofmedicalproductsandtobacco/cder/ucm090276.htm.* The website includes links to the latest **Federal Register** notices and peer-reviewed publications produced by our office. The website maintains information on studies we have conducted, dating back to a DTC survey conducted in 1999.

The present research concerns disease awareness and prescription drug promotion communications on television. When pharmaceutical companies market a new drug, they often also release disease awareness communications about the medical condition the new drug is intended to treat (Ref. 1; Ref. 2). FDA is interested in whether and to what extent this practice may result in consumers confusing or otherwise misinterpreting the different information and claims presented in disease awareness communications and prescription drug promotion. Prior research has documented that in both print (Ref. 3) and online (Ref. 4) contexts, consumers tend to conflate the information presented in prescription drug promotional materials with information presented in disease awareness communications. Specifically, the results of these studies suggest consumers incorrectly ascribe benefits to a prescription drug as a result of being exposed to information in a disease awareness communication that broadly describes the symptoms and negative consequences of the disease. There are ways in which this effect can be attenuated. For example, prior research has indicated that greater visual distinctiveness between the two ad types can ameliorate such confusion (Ref. 3). The present research seeks to extend previous studies of print and online promotion to the context of television promotion, and broadly examine how perceptual similarity between the two communication types, as well as their temporal proximity and exposure frequency, may impact the nature and extent of viewer confusion.

Fors Marsh Group (FMG) is conducting this research under the guidance and supervision of FDA to determine how the similarity, temporal positioning, and frequency of exposure to disease awareness communications and prescription drug television promotion impact consumer perception and understanding of the benefits and risks of a prescription drug product. These objectives will be achieved using two experimental studies. The first study will explore the impact on consumer perception and comprehension of different levels of temporal separation between the disease awareness communication and prescription drug promotion within a single period of television programming, as well as the level of similarity versus distinctiveness between these communication types. Temporal separation is defined as the spacing or proximity between the disease awareness communication and prescription drug promotion in the hour-long programming, for example, if they are shown back-to-back or if they are separated by other ads or television programming. Similarity/distinctiveness is defined by variations between the disease awareness communication and prescription drug promotion, including visual and presentation elements such as the setting, actors, and colors. The second study will experimentally examine the impact of disease awareness communication temporal separation and exposure frequency on consumer perception and comprehension. Temporal separation in this second study again refers to the spacing or proximity between the disease awareness communication and prescription drug promotion but is operationally defined as either one day or one week. Exposure frequency is defined as the number of times that participants will view the disease awareness communication, either one, three, or six times. The results of this latter study will examine the practice of ''seeding the market,'' in which pharmaceutical companies release disease awareness communications before releasing product promotion communications. Similarity versus distinctiveness will also be examined in this study.

We propose the following hypotheses for this research:

Study 1:

H1: Increased perceptual similarity between a disease awareness communication and a prescription drug promotion will result in significantly more conflation of the information presented in both pieces.

H2: Increased temporal proximity between a disease awareness communication and a prescription drug promotion will result in significantly more conflation of the information presented in both pieces.

Study 2:

H1: Increased frequency of exposure to a disease awareness communication before exposure to a prescription drug promotion will result in significantly more conflation of the information presented in both pieces.

H2: Increased temporal proximity between a disease awareness communication and a prescription drug promotion will result in significantly more conflation of the information presented in both pieces.

H3: Increased perceptual similarity between a disease awareness communication and a prescription drug promotion will result in significantly more conflation of the information presented in both pieces.

In each instance, conflation is operationalized as the extent to which an individual remembers and attributes benefits to a product that is based on information presented in a disease awareness communication and not in the drug promotion.

To address these hypotheses, Study 1 will employ a 3x4 factorial design in which participants are randomly assigned to one disease awareness communication condition, plus one control condition where participants will not view a disease awareness communication. The extent to which the disease awareness communication is perceptually similar to the product promotion communication will vary, as will the temporal separation of the disease awareness communication and product promotion communication. Table 1 depicts our design visually.

TABLE 1—STUDY 1 EXPERIMENTAL DESIGN

Disease awareness ad	Perceptual similarity to product ad	Disease awareness and product ad temporal separation			
		Back to back	Within same commercial pod [1]	In neighboring commercial pods	In non-neighboring commercial pods
Yes	Similar. Semi-similar. Distinct.				

TABLE 1—STUDY 1 EXPERIMENTAL DESIGN—Continued

Disease awareness ad	Perceptual similarity to product ad	Disease awareness and product ad temporal separation			
		Back to back	Within same commercial pod [1]	In neighboring commercial pods	In non-neighboring commercial pods
No	N/A.				

Table 2. Study 1 Sequence

Condition	Sequence														
	6min	2min	5min	2min	5min	2min	5min	2min	6min	2min	5min	2min	5min	2min	5min
Back to back		DA, P												DA, P	
Same pod		DA, P												DA, P	
Neighboring pods		DA		P								DA		P	
Non-neighboring pods		DA				P				DA				P	
Control		P												P	

TV Program ☐ Commercial Pod ▒

DA = Disease Awareness Communication; P = Product Promotion

Study 2 will employ a 2x2x3 factorial design in which participants are randomly assigned to one disease awareness communication condition. The varying factors in Study 2 are the temporal separation between the disease awareness and product promotion communication, the number of exposures to the disease awareness communication, and the perceptual similarity of the disease awareness communication to the product promotion communication. Table 3 visually depicts our design. Of note, to reduce the overall number of experimental conditions for Study 2, no semi-similar experimental condition is used.

TABLE 3—STUDY 2 EXPERIMENTAL DESIGN

Time delay until product ad exposure (temporal separation)	Perceptual similarity of ads	Exposures to disease awareness ad		
		One exposure	Three exposures	Six exposures
One Day	Similar.			
	Distinct.			
One Week	Similar.			
	Distinct.			

Table 4. Study 2 Sequence

			Disease awareness ad exposure phase						Product ad exposure phase						
			Day →												
			1	2	5	6	9	10	11	12	13	14	15	16	17
	Delay	**Similarity**													
Six exposures	1 day	similar	x	x	x	x	x	x	x						
		distinct	x	x	x	x	x	x	x						
	1 week	similar	x	x	x	x	x	x							x
		distinct	x	x	x	x	x	x							x
Three exposures	1 day	similar				x	x	x	x						
		distinct				x	x	x	x						
	1 week	similar				x	x	x							x
		distinct				x	x	x							x
One exposure	1 day	similar						x	x						
		distinct						x	x						
	1 week	similar						x							x
		distinct						x							x

Study 1 and 2 Sample. The targeted voluntary sample for both studies will comprise adults who self-report a current asthma diagnosis, a lifetime incidence of asthma, or experience a large number of asthma symptoms. These groups are believed to be very likely to be targeted by disease awareness and product promotion

[1] A commercial pod refers to a group of ads into which the test ad is inserted, designed to simulate an advertising break during a television program. As depicted in Table 2, by neighboring commercial pods, we mean commercial pods separated only by television programming and no other commercial pods. By non-neighboring commercial pods, we mean commercial pods separated by both television programming and one or more (one, as studied here) other commercial pods.

communications for asthma. The combined incidence rate of these groups is 22.2% (Ref. 5; Ref. 6). In addition, several exclusion criteria are specified. These include: (1) Training or employment as a healthcare professional, (2) employment with a pharmaceutical company, an advertising agency, a market research company, or the Department of Health and Human Services (HHS), and (3) participation in market research within the past three months on the topic of prescription drugs. Pretest participants will also be ineligible for the main study.

Pretesting. Pretesting will take place before the main studies to evaluate the procedures used in the main studies. Each of the two pretests will have the same design as its respective main study (pretest 1 for Study 1 and pretest 2 for Study 2). The purpose of both pretests will be to: (1) Ensure that the mock stimuli are understandable, viewable, and delivering intended messages; (2) identify and eliminate any challenges to embedding the mock stimuli within the online survey; (3) ensure that survey questions are appropriate and meet the analytical goals of the research; and (4) pilot test the methods, including examining response rates and timing of survey. The two pretests will be conducted simultaneously.[2] Based on pretest findings, we will refine the mock stimuli, survey questions, and data collection process, as necessary, to optimize the full-scale study conditions.

Measurement. Our planned analyses are designed to address the key hypotheses. For both Study 1 and Study 2, we anticipate that the primary analysis will be analysis of variance (ANOVA) to compare the main and interaction effects of the experimental factors.

The focal dependent variable will be *conflation*—a measure of memory and perceptions regarding the promoted drug relative to the information presented in the disease awareness communication. Conflation will be measured by using the number of benefits that are incorrectly attributed to the prescription drug product based on responses to a number of both open-ended and closed-ended items.

Other key dependent variables will reflect perceptions and attitudes toward the product ad. These include measures of:

1. Perception of product promotion effectiveness;
2. Behavioral intentions toward the drug;
3. Perceived efficacy of the drug; and
4. Perceived risks of the drug.

In addition to the primary variables of interest, we have also identified potential covariates that will be included in the analyses:

1. Knowledge about asthma;
2. Health literacy; and
3. Perceived ad effectiveness.

We expect that knowledge about asthma and increased health literacy may moderate any conflation that results from ad similarity, temporal proximity, and frequency of exposure. Perceptions of promotion effectiveness, on the other hand, can be examined both as an outcome/dependent variable but also as a covariate that examines involvement with the product promotion. Greater involvement may attenuate conflation in that it directs more in-depth processing of both the disease awareness communication and product promotion, and therefore more correct understanding of the claims in each (Ref. 7; Ref. 8; Ref. 9).

FDA estimates the burden of this collection of information as follows:

TABLE 5—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Study 1 Pretest screener	385	1	385	0.08 (~5 min.)	31
Study 2 Pretest screener	329	1	329	0.08 (~5 min.)	26
Study 1 screener	3,007	1	3,007	0.08 (~5 min.)	241
Study 2 screener	2,643	1	2,643	0.08 (~5 min.)	211
Study 1 Pretest	270	1	270	1.33 (~1 hr 20 min.)	360
Study 2 Pretest	158	1	158	0.53 (~32 min.)	84
Study 1	2,105	1	2,105	1.33 (~1 hr 20 min.)	2,800
Study 2	1,269	1	1,269	0.53 (32 min.)	673
Total					4,426

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

References

The following references are on display in the Dockets Management Staff (see **ADDRESSES**) and are available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; they are also available electronically at *https://www.regulations.gov.* FDA has verified the website addresses, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

1. *https://www.fiercepharma.com/marketing/unbranded-pharma-ad-what-are-they-good-for-actually-quite-a-bit-marketer-panelists-say?mkt_tok=eyJpIjoiWkRnelpUSmlORFpoWkdNMSIsInQiOiJPaENIUERpT0tnUmt6Y1BPMk9LTnpreUI3bUtPOVRzRnh1RzNuWUtYQmp0cWJhcW05UFhlcllwTzI3V0RJSndjVkZLR3NGUHBLamJOZmJSK2FZeWtIVXczeFRFcmtEV0NFaVdCSjArUmx4dUlRVHZpUzFFOWlVY0dNb1RzOU9XayJ9&mrkid=20932234.*
2. *https://www.fiercepharma.com/marketing/avanir-launches-nuedexta-brand-campaign-retires-danny-glover-pba-disease-awareness-ad.*
3. Aikin, K. J., Sullivan, H. W., & Betts, K. R. (2016). Disease information in direct-to-consumer prescription drug print ads. *Journal of Health Communication, 21,* 228–239.
4. Sullivan, H. W., O'Donoghue, A. C., Rupert, D. J., Willoughby, J. F., Amoozegar, J. B., & Aikin, K. J. (2016). Are disease awareness links on prescription drug websites misleading?

[2] Pretesting will be preceded by cognitive interviewing, not described here. Cognitive interviews are used to probe a small sample of participants on how and why they responded to various questions as they did, resulting in strong measurement instruments.

A randomized study. *Journal of Health Communication, 21,* 1198–1207.
5. Centers for Disease Control and Prevention. (2018a, May 18). *2016 National Health Interview Survey (NHIS) data.* Retrieved from *https://www.cdc.gov/asthma/nhis/2016/table2-1.htm.*
6. Centers for Disease Control and Prevention. (2018b, May 15). *Most recent asthma data.* Retrieved from *https://www.cdc.gov/asthma/most_recent_data.htm.*
7. Petty, R. E., & Cacioppo, J. T. (1979). Issue involvement can increase or decrease persuasion by enhancing message-relevant cognitive responses. *Journal of Personality and Social Psychology, 37,* 1915–1926. doi: 10.1037/0022-3514.37.10.1915.
8. Petty, R. E., & Cacioppo, J. T. (1986). The elaboration likelihood model of persuasion. *Advances in Experimental Social Psychology, 19,* 123–205. doi: 10.1016/S0065-2601(08)60214-2.
9. Petty, R. E., Cacioppo, J. T., & Goldman, R. (1981). Personal involvement as a determinant of argument-based persuasion. *Journal of Personality and Social Psychology, 41,* 847–855. doi: 10.1037/0022-3514.41.5.847.

Dated: October 11, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–22567 Filed 10–16–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–N–3633]

Oncology Center of Excellence: Pediatric Oncology Program; 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 Oncology Center of Excellence (OCE) Pediatric Oncology Program of the Food and Drug Administration (FDA or the Agency) announces the creation of a list of molecular targets that have been determined to be substantially relevant to the growth or progression of a pediatric cancer (Candidate Pediatric Molecular Target List) and a list of molecular targets of new cancer drugs and biological products in development for which requirements for studies in pediatric cancers would be automatically waived. The former list includes molecular targets for which prevailing evidence and/or a scientific rationale exists to determine their potential relevance to the growth or progression of one or more pediatric cancers. The latter list details those targets that are unlikely to be associated with the growth or progression of pediatric cancers such that statutory requirements for early pediatric evaluation would be waived. These lists fulfill one of FDA's obligations under the FDA Reauthorization Act of 2017 (FDARA) and provide information to industry in planning for initial pediatric study plan submissions for certain oncology drugs or biological products in accordance with the amended provisions of the Federal Food, Drug, and Cosmetic Act (FD&C Act). FDA is establishing this docket for public comment on possible additions to or deletions from the list on the lists described above.

The lists can be found on the Oncology Center of Excellence: Pediatric Oncology website at the following link: *https://www.fda.gov/AboutFDA/CentersOffices/OfficeofMedicalProductsandTobacco/OCE/ucm544641.htm.*

DATES: Submit either electronic or written comments. This docket will remain open indefinitely.

ADDRESSES: 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 below (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–3633 for ''Oncology Center of Excellence: Pediatric Oncology Program; Establishment of a Public Docket; Request for Comments.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' 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: Christine Lincoln, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave. Bldg. 22, Rm. 2118, Silver Spring, MD 20993–0002, email: *Christine.Lincoln@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: The use of tumor genetic profiling in cancer treatment decision making has transformed therapeutic strategies in many adult cancers. Extension of this approach to treatment decision making for children with cancer, however, has been greatly diminished due to delays in evaluation of potentially active drugs. Until the passage of section 504 of FDARA, section 505B of the FD&C Act (21 U.S.C. 355c) has not typically been a useful mechanism to require the development of drugs for pediatric cancers, since most of the oncology drugs approved for adults are used to treat cancers that very rarely or never occur in children (*e.g.* cancers of the lung, prostate and breast). Therefore, historically, drug sponsors have requested and obtained waivers for conducting the required assessments of these drugs in pediatric patients. Additionally, drugs developed for rare cancer indications that received orphan designation are exempted from the pre-FDARA requirement to conduct pediatric assessments—even if the cancers those products are intended to treat occur in both adult and pediatric patients—due to the fact that the orphan designation exempts them from such studies (see section 505B(k) of the FD&C Act). However, FDARA amended section 505B so that the requirement for pediatric investigations of drugs directed at molecular targets determined to be substantially relevant to the growth and progression of a pediatric cancer apply even when the adult indication has received an orphan designation, or when the adult indication does not occur, in the pediatric population (*e.g.,* prostate cancer).

Although requirements to study investigational therapies in pediatric oncology were exceedingly rare, other incentives have been put into place to promote the development of oncology products for pediatric cancer. Section 505A of the FD&C Act (21 U.S.C. 355a) provides incentives, in the form of 6 months of additional marketing exclusivity, to encourage sponsors of investigational therapies to conduct pediatric studies of medicines with the potential for use in children. To date, section 505A has been one of the few mechanisms available to incentivize evaluation of new oncology products in children and adolescents. Nevertheless, further development of more novel products that address the substantial unmet needs of the pediatric population is needed.

Section 504 of FDARA requires FDA, with input from the National Cancer Institute (NCI) and others, to develop and regularly update: (1) A list of molecular targets that are determined to be substantially relevant to the growth and progression of a pediatric cancer, and that may trigger the requirement for pediatric investigations under section 505B of the FD&C Act, and (2) a list of molecular targets of new cancer drugs and biological products in development for which the requirement for pediatric investigations under section 505B of the FD&C Act would be automatically waived.

To date, a total of 205 candidate molecular targets were identified from peer-reviewed literature searches, review of publicly available genomic databases, such as NCI Genomic Data Commons, TARGET (Therapeutically Applicable Research to Generate Effective Targets), St. Jude PeCan Data Portal, Ped PanCan, and INFORM (Individualized Therapy for Relapsed Malignancies in Childhood), and input from international subject matter experts. Of these, 62 (30.3 percent) target a gene abnormality, 40 (19.5 percent) target a cell lineage determinant, 21 (10.2 percent) target the tumor microenvironment or the immune system, and 77 (37.6 percent) are classified as ''Others.'' Five (2.4 percent) are candidates for automatic waivers.

Dated: October 11, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–22565 Filed 10–16–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–N–3138]

Agency Information Collection Activities; Proposed Collection; Comment Request; Experimental Study of an Accelerated Approval Disclosure

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information and to allow 60 days for public comment in response to the notice. This notice solicits comments on research entitled ''Experimental Study of an Accelerated Approval Disclosure.'' This study will examine the presence, wording, and prominence of a disclosure communicating information related to the drug's accelerated approval in direct-to-consumer (DTC) promotional materials.

DATES: Submit either electronic or written comments on the collection of information by December 17, 2018.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before December 17, 2018. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of December 17, 2018. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your

comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2018–N–3138 for ''Experimental Study of an Accelerated Approval Disclosure'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

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

FOR FURTHER INFORMATION CONTACT: Ila S. Mizrachi, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–7726, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Experimental Study of an Accelerated Approval Disclosure

OMB Control Number 0910—NEW

Section 1701(a)(4) of the Public Health Service Act (PHS Act) (42 U.S.C. 300u(a)(4)) authorizes FDA to conduct research relating to health information. Section 1003(d)(2)(C) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 393(d)(2)(C)) authorizes FDA to conduct research relating to drugs and other FDA-regulated products in carrying out the provisions of the FD&C Act.

The Office of Prescription Drug Promotion's (OPDP) mission is to protect the public health by helping to ensure that prescription drug information is truthful, balanced, and accurately communicated so that patients and health care providers can make informed decisions about treatment options. The OPDP's research program supports this mission by providing scientific evidence to help ensure that our policies related to prescription drug promotion will have the greatest benefit to public health. Toward that end, we have consistently conducted research to evaluate the aspects of prescription drug promotion that we believe are most central to our mission, focusing in particular on three main topic areas: Advertising features, including content and format; target populations; and research quality. Through the evaluation of advertising features we assess how elements such as graphics, format, and disease and product characteristics impact the communication and understanding of prescription drug risks and benefits; focusing on target populations allows us to evaluate how understanding of prescription drug risks and benefits may vary as a function of audience; and our focus on research quality aims at maximizing the quality of research data through analytical methodology development and investigation of sampling and response issues. This study falls under the topic of advertising features (content and format).

Pursuant to section 506(c) of the FD&C Act (21 U.S.C. 356 (c)) and 21 CFR part 314, subpart H (or 21 CFR part 601, subpart E for biological products), FDA may grant accelerated approval to a drug product under section 505(c) (21 U.S.C. 355 (c)) of the FD&C Act or a

biological product under section 351(a) of the PHS Act (42 U.S.C. 262(a)). This pathway enables faster approval of prescription drugs intended to treat serious or life-threatening illnesses. Accelerated approval may be based on a determination that a drug product has an effect on a surrogate endpoint (for example, a blood test result) that is reasonably likely to predict clinical benefit, or on a clinical endpoint that can be measured earlier than irreversible morbidity or mortality, that is reasonably likely to predict an effect on irreversible morbidity or mortality or other clinical benefit (*i.e.,* an intermediate clinical endpoint). In approving a drug under the accelerated approval pathway, the severity, rarity, or prevalence of a condition, and the availability or lack of alternative treatments, are taken into account.

The accelerated approval pathway is limited to certain products intended to treat serious or life-threatening illnesses as there can be ''[u]ncertainty about whether clinical benefit will be verified and the possibility of undiscovered risks'' (2014 Guidance for Industry: Expedited Programs for Serious Conditions—Drugs and Biologics; available at *https://www.fda.gov/downloads/Drugs/Guidances/UCM358301.pdf*). Sponsors are generally required to conduct post approval studies to verify and describe the predicted clinical benefit, but those confirmatory studies are not complete at the time that the accelerated approval is granted (Ref. 1). In the event that the required post approval confirmatory studies fail to verify and describe the predicted effect or clinical benefit, a drug's approval can be withdrawn using expedited procedures.

Under FDA's regulations governing physician labeling for prescription drugs, the INDICATIONS AND USAGE section of the FDA-approved prescribing information (PI) for a drug approved under accelerated approval must include a succinct description of the limitations of usefulness of the drug and any uncertainty about anticipated clinical benefits, with reference to the clinical studies section for a discussion of the available evidence (21 CFR 201.57(c)(2)(i)(B)). Therefore, the PI for accelerated approval products typically satisfies this requirement by including a statement in the INDICATIONS AND USAGE section about the product's approval under the accelerated approval pathway. In a draft guidance, FDA recommended that the INDICATIONS AND USAGE section for drugs approved under accelerated approval should generally describe three elements: indication(s), limitations of usefulness and clinical benefit uncertainty, and continued approval (Ref. 2). As the PI is intended for healthcare professionals, the information related to a drug's accelerated approval generally includes complex concepts and sophisticated wording. For example, PIs for accelerated approval products include language such as:

- This indication is approved under accelerated approval based on [surrogate endpoint]. An improvement in survival or disease-related symptoms has not been established. Continued approval for this indication may be contingent upon verification and description of clinical benefit in the confirmatory trial; or
- Approval is based on a reduction in [surrogate endpoint]. There are no controlled trials demonstrating a direct treatment benefit such as improvement in disease-related symptoms, functioning, or increased survival.

Despite its complexity, sponsors often use this language from the PI in DTC promotional materials for drugs approved under accelerated approval. In other cases, DTC promotion of accelerated approval products does not communicate the unique considerations and potential limitations inherent in the accelerated approval process.

Disclosures may be used to communicate such information to consumers. Disclosures can include information about scientific and clinical data, any residual uncertainty about clinical benefit, and the practical utility of scientific and clinical data. These disclosures may influence consumer comprehension and affect perception of drug's risks and benefits. This study will examine the presence, wording, and prominence of a disclosure communicating information related to the drug's accelerated approval in DTC promotional materials. This information includes the use of surrogate or intermediate clinical endpoints to support approval, the uncertainty about the relationship of the surrogate or intermediate clinical endpoint to the predicted clinical benefit, and the need for confirmatory trials.

We plan to conduct one pretest not longer than 20 minutes, administered via internet panel, to test the experimental manipulations and pilot the main study procedures. After implementing any lessons learned from the pilot, we then plan to conduct one main study not longer than 20 minutes, administered via internet panel. For the pretest and main study, we will randomly assign the voluntary participants to one of the test conditions (see table 1 for the study design). We have chosen to focus on oncology products because cancer is a life-threatening illness, and many oncology products are granted accelerated approval. Moreover, DTC promotion of oncology drugs is common. In the study, participants will view a website for a fictional oncology prescription drug. After viewing the website, participants will complete a questionnaire that assesses whether participants noticed the disclosure and their interpretation of it, as well as perceptions of the drug's risks and benefits. We will also measure covariates such as demographics and literacy. The questionnaire is available upon request from *DTCresearch@fda.hhs.gov.*

We will vary the presence and prominence of the disclosure (*e.g.,* size, color, and location). We hypothesize that participants will be more likely to notice the disclosure when it is presented more, rather than less, prominently. In turn, we expect that participants' perceptions of the drug are more likely to be affected by the disclosure in the high prominence condition. We also will vary whether the disclosure is written in consumer-friendly language or uses language, in use by many sponsors, which is the same as or similar to that directed at healthcare professionals in FDA-approved prescription drug labeling for accelerated approval products. The consumer-friendly version of the accelerated approval disclosure will be based on consumer feedback elicited in focus groups conducted prior to the pretest (approved under OMB control number 0910–0695). The physician labeling version of the accelerated approval disclosure will be drawn from FDA-approved physician labeling. We hypothesize that participants will be more likely to notice and understand the disclosure and use it to form their perceptions of the drug if they view the consumer-friendly language. To test these hypotheses, we will conduct inferential statistical tests such as logistic regression and analysis of variance.

TABLE 1—STUDY DESIGN

	High prominence	Low prominence	Absent
Physician labeling version. Consumer-friendly version.			

We will recruit a general population sample of adult volunteers 18 years of age or older. We will exclude individuals who work for the U.S. Department of Health and Human Services or work in the health care, marketing, advertising, or pharmaceutical industries. We will use health literacy quotas to ensure that our sample includes participants with a range of health literacy skills. With the sample sizes described below, we will have sufficient power to detect small-sized effects in the main study (table 2).

FDA estimates the burden of this collection of information as follows:

TABLE 2—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Pretest screener	916	1	1	0.08 (5 min.)	73.28
Study screener	1,507	1	1	0.08 (5 min.)	120.56
Pretest	385	1	1	0.33 (20 min.)	127.05
Main Study	633	1	1	0.33 (20 min.)	208.89
Total					529.78

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

References

The following references are on display at the Dockets Management Staff, Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20857, and is available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; the reference marked with an asterisk is also available electronically at *https://www.regulations.gov.* The reference without an asterisk is not on public display at *https://www.regulations.gov* because it has copyright restriction, or it is available as a published article. FDA has verified the website address, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

1. Beaver J.A., L.J. Howie, L. Pelosof, et al. ''A 25-Year Experience of U.S. Food and Drug Administration Accelerated Approval of Malignant Hematology and Oncology Drugs and Biologics: A Review.'' *JAMA Oncology.* 2018; 4(6):849–856. doi:10.1001/jamaoncol.2017.5618.

2. FDA Draft Guidance for Industry: Labeling for Human Prescription Drug and Biological Products Approved Under the Accelerated Approval Pathway (March 2014) (*https://www.fda.gov/downloads/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/UCM390058.pdf*).

Dated: October 11, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–22570 Filed 10–16–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–E–6541]

Determination of Regulatory Review Period for Purposes of Patent Extension; DUPIXENT

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) has determined the regulatory review period for DUPIXENT and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of the U.S. Patent and Trademark Office (USPTO), Department of Commerce, for the extension of a patent which claims that human biological product.

DATES: Anyone with knowledge that any of the dates as published (see the **SUPPLEMENTARY INFORMATION** section) are incorrect may submit either electronic or written comments and ask for a redetermination by December 17, 2018. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by April 15, 2019. See ''Petitions'' in the **SUPPLEMENTARY INFORMATION** section for more information.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before December 17, 2018. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of December 17, 2018. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or

anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2017–E–6541 for ''Determination of Regulatory Review Period for Purposes of Patent Extension; DUPIXENT.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with § 10.20 (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: Beverly Friedman, Office of Regulatory Policy, Food and Drug Administration, 10903 New Hampshire Ave. Bldg. 51, Rm. 6250, Silver Spring, MD 20993, 301–796–3600.

SUPPLEMENTARY INFORMATION:

I. Background

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human biological products, the testing phase begins when the exemption to permit the clinical investigations of the biological product becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human biological product and continues until FDA grants permission to market the biological product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of USPTO may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human biological product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human biologic product DUPIXENT (dupilumab). DUPIXENT is indicated for treatment of adult patients with moderate-to-severe atopic dermatitis whose disease is not adequately controlled with topical prescription therapies or when those therapies are not advisable. Subsequent to this approval, the USPTO received a patent term restoration application for DUPIXENT (U.S. Patent No. 7,608,693) from Regeneron Pharmaceuticals, Inc., and the USPTO requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated February 2, 2018, FDA advised the USPTO that this human biological product had undergone a regulatory review period and that the approval of DUPIXENT represented the first permitted commercial marketing or use of the product. Thereafter, the USPTO requested that FDA determine the product's regulatory review period.

II. Determination of Regulatory Review Period

FDA has determined that the applicable regulatory review period for DUPIXENT is 2,728 days. Of this time, 2,485 days occurred during the testing phase of the regulatory review period, while 243 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)) became effective:* October 10, 2009. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on October 10, 2009.

2. *The date the application was initially submitted with respect to the human biological product under section 351 of the Public Health Service Act (42 U.S.C. 262):* July 29, 2016. FDA has verified the applicant's claim that the biologics license application (BLA) for DUPIXENT (BLA 761055) was initially submitted on July 29, 2016.

3. *The date the application was approved:* March 28, 2017. FDA has verified the applicant's claim that BLA 761055 was approved on March 28, 2017.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the USPTO applies several

statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,273 days of patent term extension.

III. Petitions

Anyone with knowledge that any of the dates as published are incorrect may submit either electronic or written comments and, under 21 CFR 60.24, ask for a redetermination (see **DATES**). Furthermore, as specified in § 60.30 (21 CFR 60.30), any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must comply with all the requirements of § 60.30, including but not limited to: Must be timely (see **DATES**), must be filed in accordance with § 10.20, must contain sufficient facts to merit an FDA investigation, and must certify that a true and complete copy of the petition has been served upon the patent applicant. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Submit petitions electronically to *https://www.regulations.gov* at Docket No. FDA–2013–S–0610. Submit written petitions (two copies are required) to the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Dated: October 11, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–22566 Filed 10–16–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–E–6527]

Determination of Regulatory Review Period for Purposes of Patent Extension; BRINEURA

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) has determined the regulatory review period for BRINEURA and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of the U.S. Patent and Trademark Office (USPTO), Department of Commerce, for the extension of a patent which claims that human biological product.

DATES: Anyone with knowledge that any of the dates as published (see the **SUPPLEMENTARY INFORMATION** section) are incorrect may submit either electronic or written comments and ask for a redetermination by December 17, 2018. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by April 15, 2019. See ''Petitions'' in the **SUPPLEMENTARY INFORMATION** section for more information.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before December 17, 2018. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of December 17, 2018. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2017–E–6527 for ''Determination of Regulatory Review Period for Purposes of Patent Extension; BRINEURA.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- *Confidential Submissions*—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with § 10.20 (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: Beverly Friedman, Office of Regulatory Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6250, Silver Spring, MD 20993, 301–796–3600.

SUPPLEMENTARY INFORMATION:

I. Background

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human biological products, the testing phase begins when the exemption to permit the clinical investigations of the biological product becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human biological product and continues until FDA grants permission to market the biological product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of USPTO may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human biological product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human biologic product BRINEURA (cerliponase alfa). BRINEURA is indicated to slow the loss of ambulation in symptomatic pediatric patients 3 years of age and older with late infantile neuronal ceroid lipofuscinosis type 2, also known as tripeptidyl peptidase 1 deficiency. Subsequent to this approval, the USPTO received a patent term restoration application for BRINEURA (U.S. Patent No. 8,029,781) from Rutgers, the State University of New Jersey, and the USPTO requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated February 2, 2018, FDA advised the USPTO that this human biological product had undergone a regulatory review period and that the approval of BRINEURA represented the first permitted commercial marketing or use of the product. Thereafter, the USPTO requested that FDA determine the product's regulatory review period.

II. Determination of Regulatory Review Period

FDA has determined that the applicable regulatory review period for BRINEURA is 995 days. Of this time, 659 days occurred during the testing phase of the regulatory review period, while 336 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)) became effective:* August 8, 2014. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on August 8, 2014.

2. *The date the application was initially submitted with respect to the human biological product under section 351 of the Public Health Service Act (42 U.S.C. 262):* May 27, 2016. FDA has verified the applicant's claim that the biologics license application (BLA) for BRINEURA (BLA 761052) was initially submitted on May 27, 2016.

3. *The date the application was approved:* April 27, 2017. FDA has verified the applicant's claim that BLA 761052 was approved on April 27, 2017.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the USPTO applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 666 days of patent term extension.

III. Petitions

Anyone with knowledge that any of the dates as published are incorrect may submit either electronic or written comments and, under 21 CFR 60.24, ask for a redetermination (see **DATES**). Furthermore, as specified in § 60.30 (21 CFR 60.30), any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must comply with all the requirements of § 60.30, including but not limited to: Must be timely (see **DATES**), must be filed in accordance with § 10.20, must contain sufficient facts to merit an FDA investigation, and must certify that a true and complete copy of the petition has been served upon the patent applicant. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Submit petitions electronically to *https://www.regulations.gov* at Docket No. FDA–2013–S–0610. Submit written petitions (two copies are required) to the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Dated: October 11, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–22559 Filed 10–16–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–D–2613]

Presenting Quantitative Efficacy and Risk Information in Direct-to-Consumer Promotional Labeling and Advertisements; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled ''Presenting Quantitative Efficacy and Risk Information in Direct-to-Consumer Promotional Labeling and Advertisements.'' This draft guidance provides recommendations for presenting quantitative efficacy and risk information in direct-to-consumer (DTC) promotional labeling and advertisements for prescription human drugs and biological products and prescription animal drugs and in DTC promotional labeling for over-the-counter (OTC) animal drugs (collectively *promotional materials*). FDA is issuing this draft guidance to describe the Agency's recommendations for how manufacturers, distributers, and packers (collectively *firms*) that include quantitative efficacy or risk information about their drugs in DTC promotional materials can make the language and presentation more consumer-friendly.

DATES: Submit either electronic or written comments on the draft guidance by December 17, 2018 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2018–D–2613 for ''Presenting Quantitative Efficacy and Risk Information in Direct-to-Consumer Promotional Labeling and Advertisements; Draft Guidance for Industry; Availability.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

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

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002; or the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002; or the Policy and Regulations Staff (HFV–6), Center for Veterinary Medicine, Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855. Send one self-addressed adhesive label to assist that office in processing your request. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Elizabeth Pepinsky, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 3248, Silver Spring, MD 20993–0002, 301–796–1200; or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911; or Tom Moskal, Center for Veterinary Medicine (HFV–216), 7519 Standish Pl., Rockville, MD 20855, 240–402–6251.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Presenting Quantitative Efficacy and Risk Information in Direct-to-Consumer Promotional Labeling and Advertisements.'' This draft guidance describes recommendations for how firms that include quantitative efficacy or risk information about their drugs [1] in DTC promotional materials can make the language and presentation more consumer-friendly. These recommendations apply to DTC promotional materials covered by this draft guidance regardless of the medium in which they are presented (*e.g.,* print, electronic, audiovisual, broadcast).

When describing efficacy and risk information about a drug in promotional materials, firms generally have flexibility with how they present this information so long as the presentation is balanced, truthful, and non-misleading, and complies with other applicable statutory and regulatory requirements. One consideration for firms as they develop DTC promotional materials for their drugs is how to best convey efficacy and risk information in a manner that consumers can easily understand, including whether to use words, numbers, visual graphics, or a combination of these elements. FDA understands that firms may experience challenges in determining how to best present quantitative efficacy or risk information in their DTC promotional materials so that consumers can easily comprehend it and use it to form accurate perceptions about their drugs. For these reasons, FDA is issuing this

[1] The term *drugs* in this guidance refers to prescription human drugs, including prescription biological products, and prescription and OTC animal drugs.

draft guidance to provide recommendations for presenting quantitative efficacy and risk information in DTC promotional materials and to encourage firms to follow these recommendations when including such information in their DTC promotional materials.

The draft guidance covers the following topics for presenting quantitative efficacy and risk information in DTC promotional materials, based on current research findings related to communicating health information:

- Presenting probability information in terms of absolute frequencies, percentages, and relative frequencies
- Formatting quantitative efficacy or risk information
- Using visual aids to illustrate quantitative efficacy or risk information
- Providing quantitative efficacy or risk information for the treatment group and the control group

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent FDA's recommendations for ''Presenting Quantitative Efficacy and Risk Information in Direct-to-Consumer Promotional Labeling and Advertisements.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

II. Paperwork Reduction Act of 1995

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. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Title: Presenting Quantitative Efficacy and Risk Information in Direct-to-Consumer Promotional Labeling and Advertisements.

Description of Respondents: Respondents to this collection of information are manufacturers, packers, and distributors and their representatives (firms) of human prescription drugs, including prescription biological products, and animal prescription and OTC drugs.

Burden Estimate: The draft guidance provides recommendations on how firms should present quantitative efficacy and risk information in their DTC promotional materials. Accordingly, the draft guidance recommends a ''third-party disclosure'' that constitutes a ''collection of information'' under the PRA.

Specifically, the draft guidance recommends that firms display quantitative efficacy or risk information in specific numeric formats (*e.g.,* absolute frequencies or percentages; whole numbers; denominators with a base of 10) and with appropriate context (*e.g.,* adding absolute frequency presentations to relative frequency presentations); provides formatting considerations for illustrating quantitative efficacy or risk information in a visual aid; and recommends that firms include quantitative efficacy or risk information about the control group when it is provided for the treatment group in DTC promotional materials.

According to FDA data, approximately 40,000 FDA-regulated DTC promotional materials are prepared by approximately 404 firms annually, and of these materials, the Agency estimates that approximately 40 percent contain presentations of quantitative efficacy or risk information. Based on this information, FDA estimates that approximately 40 percent (160) firms will disseminate 16,000 DTC promotional materials that contain quantitative efficacy or risk information annually, and therefore may be subject to the third-party disclosures. Based on its experience reviewing FDA-regulated promotional materials for drugs, FDA estimates that it will take firms approximately 2 hours to make the disclosures recommended in the draft guidance if they choose to include quantitative efficacy or risk information in their DTC promotional materials and follow the recommendations of this guidance.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Type of information	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours
Recommended information to be included when firms disseminate promotional materials that contain quantitative efficacy or risk information	160	100	16,000	2	32,000

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at *https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm, https://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm, https://www.fda.gov/AnimalVeterinary/GuidanceComplianceEnforcement/GuidanceforIndustry/default.htm*, or *https://www.regulations.gov.*

Dated: October 11, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–22568 Filed 10–16–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–1018]

Isachi Gil; Denial of Hearing; Final Debarment Order

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is denying Isachi Gil's (Gil's) request for a hearing and issuing an order under the Federal Food, Drug, and Cosmetic Act (FD&C Act) debarring Gil for 6 years from providing services in any capacity to a person that has an approved or pending drug product application. FDA bases this order on findings that Gil was convicted of 12 felonies under Federal Law involving fraud or falsification and that Gil has demonstrated a pattern of conduct sufficient to find that there is reason to believe she may violate requirements under the FD&C Act relating to drug products. In determining the appropriateness and period of Gil's debarment, FDA considered the relevant factors listed in the FD&C Act. Gil failed to file with the Agency information and analyses sufficient to create a basis for a hearing concerning this action.

DATES: This order is applicable October 17, 2018.

ADDRESSES: Any application for termination of debarment by Gil under section 306(d) of the FD&C Act (application) may be submitted as follows:

Electronic Submissions

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. An application submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your application will be made public, you are solely responsible for ensuring that your application 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 application, that information will be posted on *https://www.regulations.gov.*
- If you want to submit an application with confidential information that you do not wish to be made available to the public, submit the application 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 a written/paper application submitted to the Dockets Management Staff, FDA will post your application, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: Your application must include the Docket No. FDA–2013–N–1018. An application will be placed in the docket and, unless 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 an application with confidential information that you do not wish to be made publicly available, submit your application only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of your application. 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 application 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, 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 between 9 a.m. and 4 p.m., Monday through Friday. Publicly available submissions may be seen in the docket.

FOR FURTHER INFORMATION CONTACT: Rachael V. Linowes, Office of Scientific Integrity, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 1, Rm. 4206, Silver Spring, MD 20993, 240–402–5931.

SUPPLEMENTARY INFORMATION:

I. Background

Section 306(b)(2)(B)(ii)(I) of the FD&C Act (21 U.S.C. 335a(b)(2)(B)(ii)(I)) permits FDA to debar an individual if it finds that the individual: (1) Has been convicted of a felony that involves bribery, payment of illegal gratuities, fraud, perjury, false statement, racketeering, blackmail, extortion, falsification or destruction of records, or interference with, obstruction of an investigation into, or prosecution of, any criminal offense and (2) based on the conviction and other information, has demonstrated a pattern of conduct sufficient to find that there is reason to believe that the person may violate requirements under the FD&C Act relating to drug products.

On May 24, 2011, a jury found Gil guilty of 12 felonies. On September 28, 2011, the U.S. District Court for the Southern District of Florida entered judgment against her for five counts of felony healthcare fraud, in violation of 18 U.S.C. 1347, and seven counts of felony false statements related to healthcare matters, in violation of 18 U.S.C. 1035(a)(2). The court sentenced Gil to 43 months in prison, with 3 years of supervised release.

Gil's convictions stemmed from her work as a registered nurse in the home health field. From around March 14, 2007, through about July 15, 2009, Gil worked as a registered nurse, employed by a nursing staffing company and local home health agencies. During this time, Gil knowingly and willfully submitted and caused the submission of false and fraudulent claims to Medicare, seeking reimbursement for various home health services she had not provided. Specifically, Gil falsified and caused

Medicare beneficiaries to falsify weekly visit/time record sheets indicating that she provided skilled nursing services twice a day, 7 days a week, when she did not provide those services with such frequency. Gil falsified daily blood sugar/insulin log sheets stating that she administered insulin injections and provided other medical services to Medicare beneficiaries when she did not provide those services. Lastly, Gil created false weekly visit/time records claiming that she provided skilled nursing services to two separate Medicare beneficiaries at the same time and she caused local home health agencies to submit false and fraudulent claims that falsely represented that she provided home health services to eligible Medicare beneficiaries.

By letter dated March 18, 2014, FDA's Office of Regulatory Affairs (ORA) notified Gil of a proposal to debar her for 6 years from providing services in any capacity to a person that has an approved or pending drug product application. The proposal explained that the proposed debarment period was based on her 12 felony convictions. The proposal stated that maximum debarment period for each offense is 5 years and that FDA may determine whether debarment periods for multiple offenses should run concurrently or consecutively.

The proposal outlined findings regarding the four applicable factors ORA considered in determining the appropriateness and period of debarment, as provided in section 306(c)(3) of the FD&C Act: (1) The nature and seriousness of the offense, (2) the nature and extent of management participation in any offense, (3) the nature and extent of voluntary steps to mitigate the impact on the public, and (4) prior convictions under the FD&C Act or other acts involving matters within FDA's jurisdiction. ORA found that the nature and seriousness of the offenses and her failure to take voluntary steps to mitigate the impact of her offenses were unfavorable factors for Gil. ORA found that her lack of prior convictions was a favorable factor for Gil. Finally, ORA found that the management participation factor was not applicable based on the information in the record. ORA concluded that ''the unfavorable factors cumulatively outweigh the favorable factors and that debarment is appropriate.'' ORA proposed that each felony offense should have a 3-year debarment period. ORA further proposed that the 3-year debarment period for each healthcare fraud conviction should run concurrently and that the 3-year debarment period for each false statement conviction should run concurrently, for a total debarment period of 6 years.

The proposal offered Gil the opportunity to request a hearing, providing her 30 days from the date of receipt of the letter to file the request and 60 days from the date of receipt of the letter to support her request with information sufficient to justify a hearing. In a letter dated May 9, 2014, through counsel, Gil filed a request for hearing and indicated that she had not received the proposal until April 10, 2014. She also stated that the information justifying the hearing request would be forthcoming. More than 60 days have passed from the date Gil represents she received FDA's letter, and she has not filed any information, or any legal or policy arguments, to support her request.

Under the authority delegated to him by the Commissioner of Food and Drugs, the Acting Director of the Office of Scientific Integrity (OSI) has considered Gil's request for a hearing. Hearings will not be granted on issues of policy or law, on mere allegations, denials, or general descriptions of positions and contentions, or on data and information insufficient to justify the factual determination urged (see 21 CFR 21.24(b)).

Inasmuch as Gil has not presented any information to support her hearing request, OSI concludes that Gil has failed to raise a genuine and substantial issue of fact requiring a hearing. Therefore, OSI denies Gil's request for a hearing. Further, Gil has not presented any arguments concerning whether debarment is appropriate for each of her felony convictions or whether the proposed debarment periods are appropriate. Based on the factual findings in the proposal to debar, OSI finds that a 3-year debarment period for each felony offense is appropriate and that the 3-year debarment period for each healthcare fraud conviction should run concurrently and that the 3-year debarment period for each false statement conviction should run concurrently, for a resulting total debarment of 6 years.

II. Findings and Order

Therefore, the Director of OSI, under section 306(b)(2)(B)(i)(I) of the FD&C Act and authority delegated to him by the Commissioner of Food and Drugs, finds that: (1) Gil was convicted of a felony that involves bribery, payment of illegal gratuities, fraud, perjury, false statement, racketeering, blackmail, extortion, falsification or destruction of records, or interference with, obstruction of an investigation into, or prosecution of, any criminal offense and (2) based on the conviction and other information, Gil demonstrated a pattern of conduct giving reason to believe that she may violate requirements under the FD&C Act relating to drug products. FDA considered the applicable factors listed in section 306(c)(3) of the FD&C Act and determined that a 6-year debarment is appropriate.

As a result of the foregoing findings, Isachi Gil is debarred for 6 years from providing services in any capacity to a person with an approved or pending drug product application under sections 505, 512, or 802 of the FD&C Act (21 U.S.C. 355, 360b, or 382), or under section 351 of the Public Health Service Act (42 U.S.C. 262), effective (see **DATES**), (see 21 U.S.C. 335a(c)(1)(B) and (c)(2)(A)(iii) and 21 U.S.C. 321(dd)). Any person with an approved or pending drug application who knowingly uses the services of Gil, in any capacity during her debarment, will be subject to civil money penalties (section 307(a)(6) of the FD&C Act (21 U.S.C. 335b(a)(6))). If Gil, during her period of debarment, provides services in any capacity to a person with an approved or pending drug product application, she will be subject to civil money penalties (section 307(a)(7) of the FD&C Act). In addition, FDA will not accept or review any abbreviated new drug applications submitted by or with the assistance of Gil during her period of debarment (section 306(c)(1)(B) of the FD&C Act).

Dated: October 10, 2018.

George M. Warren,

Director, Office of Scientific Integrity.

[FR Doc. 2018–22581 Filed 10–16–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–D–0125]

Agency Information Collection Activities; Proposed Collection; Comment Request; Guidance for Industry on Establishing That a Tobacco Product Was Commercially Marketed in the United States as of February 15, 2007

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of

certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the guidance for industry entitled ''Establishing That a Tobacco Product Was Commercially Marketed in the United States as of February 15, 2007.''

DATES: Submit either electronic or written comments on the collection of information by December 17, 2018.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before December 17, 2018. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of December 17, 2018. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2011–D–0125 for the guidance for industry entitled ''Establishing That a Tobacco Product Was Commercially Marketed in the United States as of February 15, 2007.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

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

FOR FURTHER INFORMATION CONTACT: Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Guidance for Industry on Establishing That a Tobacco Product Was Commercially Marketed in the United States as of February 15, 2007

OMB Control Number 0910–0775—Extension

On June 22, 2009, the President signed the Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act) (Pub. L. 111–31) into law.

The Tobacco Control Act amended the Federal Food, Drug, and Cosmetic Act (FD&C Act) by adding, among other things, a chapter granting FDA authority to regulate the manufacture, marketing, and distribution of tobacco products to protect the public health generally and to reduce tobacco use by minors.

Section 201(rr) of the FD&C Act (21 U.S.C.321(rr)), as amended, defines a tobacco product as any product made or derived from tobacco that is intended for human consumption, including any component, part, or accessory of a tobacco product (except for raw materials other than tobacco used in manufacturing a component, part, or accessory of a tobacco product). Section 910 of the FD&C Act (21 U.S.C. 387j) sets out premarket requirements for new tobacco products. The term new tobacco product is defined as any tobacco product (including those products in test markets) that was not commercially marketed in the United States as of February 15, 2007, or any modification (including a change in design, any component, any part, or any constituent, including a smoke constituent, or in the content, delivery, or form of nicotine, or any other additive or ingredient) of a tobacco product where the modified product was commercially marketed in the United States after February 15, 2007 (section 910(a)(1) of the FD&C Act).

The Tobacco Control Act also gave FDA the authority to issue a regulation deeming all other products that meet the statutory definition of a tobacco product to be subject to chapter IX of the FD&C Act (section 901(b) (21 U.S.C. 387a(b)) of the FD&C Act). On May 10, 2016, FDA issued that rule, extending FDA's tobacco product authority to all products that meet the definition of tobacco product in the law (except for accessories of newly regulated tobacco products), including electronic nicotine delivery systems, cigars, hookah, pipe tobacco, nicotine gels, dissolvables that were not already subject to the FD&C Act, and other tobacco products that may be developed in the future (81 FR 28974 at 28976).

FDA refers to tobacco products that were commercially marketed (other than exclusively in test markets) in the United States as of February 15, 2007, as grandfathered tobacco products. Grandfathered tobacco products are not considered new tobacco products and are not subject to the premarket requirements of section 910 of the FD&C Act. The guidance document provides information on how a manufacturer may establish that a tobacco product was commercially marketed in the United States as of February 15, 2007. A grandfathered tobacco product may also serve as the predicate tobacco product in a section 905(j) report (intended to be used toward demonstrating substantial equivalence) for a new tobacco product (section 905(j)(1)A)(i) of the FD&C Act (21 U.S.C. 387e(j)(1)(A)(i))).

The guidance recommends that the manufacturer submit information adequate to demonstrate that the tobacco product was commercially marketed in the United States as of February 15, 2007. Examples of such information may include, but are not limited to, the following: Dated copies of advertisements, dated catalog pages, dated promotional material, and dated bills of lading.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

FD&C Act sections or action	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response (in hours)	Total hours
Submit evidence of commercial marketing in the United States as of February 15, 2007	1,000	1	1,000	5	5,000

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

FDA's estimate of the number of respondents is based on the fact that requesting an Agency determination of the grandfathered status of a tobacco product under the guidance is not required and also on the number of grandfathered submissions received from 2011 to June 2018. We estimate submissions have increased due to the effective date of the deeming rule. FDA has stated that, for deemed combustible products that were on the market as of August 8, 2016, it does not intend to initiate enforcement for failure to have premarket authorization until August 8, 2021. FDA has also stated that, for deemed noncombustible products that were on the market as of August 2, 2016, it does not intend to initiate enforcement for failure to have premarket authorization until August 8, 2022. When these compliance periods end, FDA expects a drop in the number of grandfathered submissions. The number of hours to gather the evidence is FDA's estimate of how long it might take one to review, gather, and submit dated information if making a request for Agency determination.

FDA further estimates it would take a manufacturer approximately 5 hours to put together this collection of evidence and to submit the package to FDA for review. FDA estimates that it should take approximately 5,000 hours annually to respond to this collection of information.

Our estimated burden for the information collection reflects an overall increase of 4,235 hours. We attribute this adjustment to an updated number of submissions received through this approval and the number of submissions expected in the next 3 years.

Dated: October 11, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–22578 Filed 10–16–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–N–3163]

Agency Information Collection Activities; Proposed Collection; Comment Request; Physician Interpretation of Information About Prescription Drugs in Scientific Publications Versus Promotional Pieces

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of

information and to allow 60 days for public comment in response to the notice. This notice solicits comments on research entitled ''Physician Interpretation of Information About Prescription Drugs in Scientific Publications vs. Promotional Pieces.'' This study will examine important public health issues in professionally directed prescription drug print promotion.

DATES: Submit either electronic or written comments on the collection of information by December 17, 2018.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before December 17, 2018. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of December 17, 2018. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2018–N–3163 for ''Physician Interpretation of Information About Prescription Drugs in Scientific Publications vs. Promotional Pieces.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

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

FOR FURTHER INFORMATION CONTACT: Ila S. Mizrachi, Office of Operations, Food and Drug Administration, Three White Flint North, 10:00 a.m.–12:00 p.m., 11601 Landsdown St., North Bethesda, MD 20852, 301–796–7726, *PRAStaff@fda.hhs.gov.*

For copies of the questionnaire contact: Office of Prescription Drug Promotion (OPDP) Research Team, *DTCresearch@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Physician Interpretation of Information About Prescription Drugs in Scientific Publications Versus Promotional Pieces

OMB Control Number 0910–NEW

I. Background

Section 1701(a)(4) of the Public Health Service Act (42 U.S.C. 300u(a)(4)) authorizes FDA to conduct research relating to health information. Section 1003(d)(2)(C) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 393(d)(2)(C)) authorizes

FDA to conduct research relating to drugs and other FDA regulated products in carrying out the provisions of the FD&C Act. Under the FD&C Act and implementing regulations, promotional labeling and advertising about prescription drugs are generally required to be truthful, non-misleading, and to reveal facts material to the presentations made about the product being promoted (see FD&C Act section 201(n) and 502(a) and (n) (21 U.S.C. 321(n) and 352(a) and (n)); see also 21 CFR 202.1). The proposed collection of information will investigate how physician perception of prescription drug information is influenced by variations in information context (presence of graphical elements and information delivery vehicle—medical journal abstract or sales aid), methodologic rigor of the underlying clinical study (high or low), and time pressure (present versus absent). This will contribute to the body of knowledge on perceptual influences, including information summarized below.

A. Ways in Which Information Context and Study Quality May Influence Perceptions

Physicians gain knowledge about medical product uses from a variety of information vehicles including peer-reviewed journal articles, compendia, continuing medical education, and physician-directed promotion by or on behalf of manufacturers. Peer-reviewed scientific publications may report the results of a variety of studies, employing a wide range of methodologies with varying levels of quality. As a result, information of varying quality is disseminated to the field. Physician detailing sometimes includes information derived from peer-reviewed research that, in this context, serves a dual purpose: To both inform and market a particular product (Ref. 1).

Prior research has examined some impacts of study quality and funding source on physician perception. For example, research by Kesselheim et al. (Ref. 2) on study abstracts examined how methodologic rigor (high, medium, low) and information about the source of funding (industry, National Institutes of Health, none) affected physician perceptions of study quality, prescribing intentions, and interest in reading the full article. Results indicated physician participants were able to distinguish between levels of methodologic rigor. Physicians also used information about the funding source to distinguish materials: They reported less willingness to prescribe the drugs or read the full study from trials funded by industry, regardless of study quality. Thus, funding source was a contextual factor that impacted physicians' perceptions of the information.

Research has also shown that physician prescribing behavior can be influenced by the context in which the information is delivered. Spurling et al (Ref. 3) examined the way in which information from a pharmaceutical company was delivered (using conventional promotional techniques such as sales rep visits, journal advertisements, or attendance at pharmaceutical-sponsored meetings versus not using conventional promotional techniques such as participation in company sponsored trials and representatives' visits for nonpromotional purposes) and prescribing outcome across 58 studies. They found conventional promotional techniques were associated with an increase in prescribing and a decrease in prescribing quality. We are proposing to test a different type of contextual factor in this study: Whether the drug information appears in a medical journal abstract or a sales aid.

B. Ways in Which Graphics May Influence Perceptions

Promotional materials about prescription drugs that are directed toward physicians often include a variety of visual elements beyond simple text. In a study of professionally directed prescription drug brochures left for physicians by pharmaceutical representatives, researchers found 95 percent contained a visual graphic (including bar charts, line graphs, pie charts, arrows) accompanying the presentation of data (Ref. 4). An analysis of professionally directed prescription drug print advertisement in medical journals found 80 percent of the ads contained some type of image and 21 percent contained graphics. A group of two physicians and one pharmacist judged these ads. This group found that of those ads that contained images, 58 percent contained images that minimized the risks of the product and 24 percent of the images in the ads misled about product efficacy (Ref. 5).

C. Ways in Which Time Pressure May Influence Perceptions

We are also interested in how time pressure may impact physician perceptions. Time pressure can impact processing of information (*e.g.,* accuracy and speed) as well as decision making. Physicians are often under pressure to split their work time between myriad duties that may include clinical care, research, mentoring, teaching, and administrative duties (Ref. 6). Individuals under time pressure tend to rely on previously formed attitudes for decision making and have less cognitive capacity to process information (Refs. 7 and 8). This results in different decisions depending on the amount of time available (Ref. 9). Research suggests that in situations with high time pressure or increased ambiguity, experts use intuitive decision making strategies rather than structured approaches (Refs. 10 and 11). Physicians may therefore tend to rely on intuitive processes rather than evidence-based information under time pressure.

Research has also found that under time pressure, physician adherence to clinical practice guidelines concerning history taking and advice giving can be compromised (Ref. 12). Moreover, one study that assessed the reading habits of physicians found that given the limited time available for critical reading, these practitioners relied heavily on abstracts and prescreening of articles by editors to ensure they received rigorous and useful information (Ref. 13). Thus, time pressure is an element of physicians' practice environment that can impact decision making and, consequently, quality of healthcare delivered.

II. Proposed Study

We propose to investigate how physician perception of professional prescription drug communications is influenced by variations in information context, methodologic rigor of the underlying clinical study, and time pressure. We propose to test three different contextual presentations of drug information (medical journal abstract, sales aid without graphic design elements, sales aid with graphic design elements), and two types of study methodological rigor used by Kesselheim et al. (classified as high or low; Ref. 2). We have chosen to test a mock sales aid presentation and a medical journal abstract to examine the potential differences in perception that may arise by presenting the same information in different vehicles. Mirroring the time constraints of practicing physicians, we will examine the role of time pressure by randomly assigning half of the study participants to a limited amount of available time to read the materials. Table 1 describes the study design.

TABLE 1—STUDY DESIGN

			Information context		
			Medical journal abstract	Sales aid without graphic design elements	Sales aid with graphic design elements [2]
Limited Time to Read	Methodological Rigor [1]	High			
		Low			
Unlimited Time to Read		High			
		Low			

[1] As defined by Kesselheim et al. (Ref. 2).
[2] For example, colors and background images.

For this proposed study, voluntary participants will be board-certified internists. To examine differences between experimental conditions, we will conduct inferential statistical tests, such as analysis of variance. With the sample size described in this document, we will have sufficient power to detect small-to-medium sized effects in the main study.

We plan to conduct one pretest with 158 voluntary participants and one main study with 566 voluntary participants. The studies will be conducted online. The pretest and main studies will have the same design and will follow the same procedure. Participants will be randomly assigned to 1 of 12 test conditions (see table 1). Following exposure to the stimuli, they will be asked to complete a questionnaire that assesses comprehension, perceptions, prescribing intentions, and demographics. We anticipate analyzing the data as a full factorial design (main effects and interactions) with two primary comparisons for the information context independent variable: Journal abstract versus sales aid without graphics, and sales aid without graphics versus sales aid with graphics. We will also do an exploratory comparison of journal abstract versus sales aid with graphics. In the pretest, participants will also answer questions about the study design and questionnaire.

This study will be conducted as part of the research program of FDA's Office of Prescription Drug Promotion (OPDP). OPDP's mission is to protect the public health by helping to ensure that prescription drug information is truthful, balanced, and accurately communicated, so that patients and healthcare providers can make informed decisions about treatment options. OPDP's research program supports this mission by providing scientific evidence to help ensure that our policies related to prescription drug promotion will have the greatest benefit to public health. Toward that end, we have consistently conducted research to evaluate the aspects of prescription drug promotion that we believe are most central to our mission, focusing on three main topic areas: Advertising features, including content and format; target populations; and research quality. Through the evaluation of advertising features we assess how elements such as graphics, format, and disease and product characteristics impact the communication and understanding of prescription drug risks and benefits; focusing on target populations allows us to evaluate how understanding of prescription drug risks and benefits may vary as a function of audience; and our focus on research quality aims at maximizing the quality of research data through analytical methodology development and investigation of sampling and response issues. This study falls under the topic of both target populations and advertising features.

Because we recognize the strength of data and the confidence in the robust nature of the findings are improved through the results of multiple converging studies, we continue to develop evidence to inform our thinking. We evaluate the results from our studies within the broader context of research and findings from other sources, and this larger body of knowledge collectively informs our policies as well as our research program. Our research is documented on our homepage, which can be found at: *https://www.fda.gov/aboutfda/centersoffices/officeofmedicalproductsandtobacco/cder/ucm090276.htm.* The website includes links to the latest **Federal Register** documents and peer-reviewed publications produced by our office. The website maintains information on studies we have conducted, dating back to a direct-to-consumer survey conducted in 1999.

FDA estimates the burden of this collection of information as follows:

TABLE 2—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of respondents	Number of Responses per Respondent	Total annual responses	Average burden per response	Total hours
Pretest screener	197	1	197	0.03 (2 minutes)	6
Main Study screener	700	1	700	0.03 (2 minutes)	21
Completes, Pretest	158	1	158	0.33 (20 minutes)	53
Completes, Main Study	566	1	566	0.33 (20 minutes)	187
Total	1,621		1,621		267

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

III. References

The following references are on display with the Dockets Management Staff (see **ADDRESSES**) and are available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; these are not available electronically at *https://www.regulations.gov*, as these references are copyright protected. FDA has verified the website addresses, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

1. Yi, J.C., G. Anandalingam, and L.A. Sorrell, ''An Expert System to Physician-Detailing Planning,'' *Expert Systems with Applications,* 25:533–544, 2003.
2. Kesselheim, A.S., C.T. Robertson, J.A. Myers, et al., ''A Randomized Study of How Physicians Interpret Research Funding Disclosures,'' *New England Journal of Medicine,* 367:1119–1127, 2012.
3. Spurling, G.K., P.R. Mansfield, B.D. Montgomery, et al., ''Information from Pharmaceutical Companies and the Quality, Quantity, and Cost of Physicians' Prescribing: A Systematic Review,'' *PLoS Medicine,* 7:e1000352, 2010.
4. Cardarelli, R., J.C. Licciardone, and L.G. Taylor, ''A Cross-Sectional Evidence-Based Review of Pharmaceutical Promotional Marketing Brochures and Their Underlying Studies: Is What They Tell Us Important and True?'' *BMC Family Practice,* 7:13, 2006.
5. Wilkes, M.S., B.H. Doblin, and M.F. Shapiro, ''Pharmaceutical Advertisements in Leading Medical Journals: Experts' Assessments,'' *Annals of Internal Medicine,* 116:912–919, 1992.
6. Fassiotto, M., C. Simard, C. Sandborg, et al., ''An Integrated Career Coaching and Time-Banking System Promoting Flexibility, Wellness, and Success: A Pilot Program at Stanford University School of Medicine,'' *Academic Medicine,* 93:881–887, 2018.
7. Alison, L., B. Doran, M.L. Long, et al., ''The Effects of Subjective Time Pressure and Individual Differences on Hypotheses Generation and Action Prioritization in Police Investigations,'' *Journal of Experimental Psychology. Applied,* 19:83–93, 2013.
8. Ratneshwar, S. and S. Chaiken, ''Comprehension's Role in Persuasion: The Case of Its Moderating Effect on the Persuasive Impact of Source Cues,'' *Journal of Consumer Research,* 18:52–62, 1991.
9. Moore, D.L., D. Hausknecht, and K. Thamodaran, ''Time Compression, Response Opportunity, and Persuasion,'' *Journal of Consumer Research,* 13:85–99, 1986.
10. Dror, I.E., J.R. Busemeyer, and B. Basola, ''Decision Making Under Time Pressure: An Independent Test of Sequential Sampling Models,'' *Memory & Cognition,* 27:713–725, 1999.
11. Croskerry, P., ''The Cognitive Imperative: Thinking About How We Think,'' *Academic Emergency Medicine,* 7:1223–1231, 2000.
12. Tsiga, E., E. Panagopoulou, N. Sevdalis, et al., ''The Influence of Time Pressure on Adherence to Guidelines in Primary Care: An Experimental Study,'' *BMJ Open,* 3:e002700, 2013.
13. Saint, S., D.A. Christakis, S. Saha, et al., ''Journal Reading Habits of Internists,'' *Journal of General Internal Medicine,* 15:881–884, 2000.

Dated: October 11, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–22569 Filed 10–16–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Immune System, Brain, and the Visual System.

Date: November 2, 2018.

Time: 9:00 a.m. to 2:00 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: Alessandra C Rovescalli, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Rm 5205 MSC7846, Bethesda, MD 20892, (301) 435–1021, *rovescaa@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Cell Biology.

Date: November 5, 2018.

Time: 12:00 p.m. to 2:00 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: Thomas Y Cho, Ph.D., Scientific Review Officer, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, 301–402–4179, *thomas.cho@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Conflicts in Gastrointestinal Immunology and Diseases.

Date: November 6, 2018.

Time: 1:00 p.m. to 5:00 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: Jonathan K Ivins, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2190, MSC 7850, Bethesda, MD 20892, (301) 594–1245, *ivinsj@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Conflicts in Integrative Gastroenterology.

Date: November 7, 2018.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Jonathan K Ivins, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2190, MSC 7850, Bethesda, MD 20892, (301) 594–1245, *ivinsj@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Cell Biology.

Date: November 8, 2018.

Time: 9:00 a.m. to 12:00 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: Jessica Smith, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, *jessica.smith6@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Shared Instrumentation for Genomics Research.

Date: November 8, 2018.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Methode Bacanamwo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2200, Bethesda, MD 20892, 301–827–7088, *methode.bacanamwo@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Biological Chemistry and Macromolecular Biophysics Chemistry.

Date: November 9, 2018.

Time: 10:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Mike Radtke, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4176, MSC 7806, Bethesda, MD 20892, 301–435–1728, *radtkem@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Cochlear Physiology and Central Auditory Processing.

Date: November 9, 2018.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Jana Drgonova, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5213, Bethesda, MD 20892, 301–827–2549, *jdrgonova@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: October 12, 2018.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–22623 Filed 10–16–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary & Integrative Health; 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 Special Emphasis Panel.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Complementary and Integrative Health Special Emphasis Panel; Exploratory Clinical Trials of Mind and Body Interventions (MB).

Date: November 15, 2018.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Pamela Eugenia Jeter, Ph.D., Scientific Review Officer, Office of Scientific Review, Division of Extramural Activities, NCCIH/NIH, 6707 Democracy Boulevard, Suite 401, Bethesda, MD 20892—547, 301–435–2591, *pamela.jeter@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.213, Research and Training in Complementary and Alternative Health, National Institutes of Health, HHS)

Dated: October 12, 2018.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–22629 Filed 10–16–18; 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 contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Advancing Translational Sciences Special Emphasis Panel; SBIR Review.

Date: November 7, 2018.

Time: 8:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, One Democracy Plaza, Room 1078, 6701 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Rahat (Rani) Khan, Ph.D., Scientific Review Officer, Office of Scientific Review, National Center for Advancing, Translational Sciences, 6701 Democracy Blvd., Rm. 1078, Bethesda, MD 20892, 301–594–7319, *khanr2@csr.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: October 11, 2018.

David D. Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–22634 Filed 10–16–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of 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 Allergy and Infectious Diseases Special Emphasis Panel.

Date: November 8, 2018.

Time: 12:00 p.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Kumud K. Singh, Ph.D., Scientific Review Officer, Scientific Review Program, DEA/NIAID/NIH/DHHS, 5601 Fishers Lane, MSC–9823, Rockville, MD 20852, 301–761–7830, *kumud.singh@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: October 12, 2018.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–22622 Filed 10–16–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; 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 Heart, Lung, and Blood Institute Special Emphasis Panel; Technologies for Healthy Independent Living.

Date: November 5, 2018.

Time: 1:00 p.m. to 3:00 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: Kristin Goltry, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7198, Bethesda, MD 20892, 301–435–0297, *goltrykl@mail.nih.gov*.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; New Epidemiology Cohort Studies in Heart, Lung, Blood, and Sleep Diseases and Disorders.

Date: November 7, 2018.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Kristen Page, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, Room 7185, Bethesda, MD 20892, 301–827–7953, *kristen.page@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: October 12, 2018.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–22621 Filed 10–16–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Disease Prevention and Management, Risk Reduction and Health Behavior Change.

Date: November 7, 2018.

Time: 9:00 a.m. to 12:00 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: Michael John McQuestion, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3114, Bethesda, MD 20892, 301–480–1276, *mike.mcquestion@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR18–731 Workforce Diversity in Basic Cancer Research.

Date: November 7, 2018.

Time: 12:00 p.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: Amy L Rubinstein, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5152, MSC 7844, Bethesda, MD 20892, 301–408–9754, *rubinsteinal@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Genes, Genomes, and Genetics.

Date: November 8–9, 2018.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Lystranne Alysia Maynard Smith, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, *lystranne.maynard-smith@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Voice Disorders.

Date: November 8, 2018.

Time: 1:00 p.m. to 3:00 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: Unja Hayes, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, 301–827–6830, *unja.hayes@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–18–252: Image-Guided Drug Delivery (R01).

Date: November 9, 2018.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Guo Feng Xu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5122, MSC 7854, Bethesda, MD 20892, 301–237–9870, *xuguofen@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Urology and Urogynecology.

Date: November 9, 2018.

Time: 10:00 a.m. to 12:00 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: Ganesan Ramesh, Ph.D., Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2182 MSC 7818, Bethesda, MD 20892, 301–827–5467, *ganesan.ramesh@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Health Disparities Special Topics.

Date: November 9, 2018.

Time: 12:00 p.m. to 5:00 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: Jessica Bellinger, Ph.D., Scientific Review Administrator, Center for Scientific of Review, National Institutes of Health, 6701 Rockledge Drive, Room 3158, Bethesda, md 20892, 301–827–4446, *bellingerjd@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Cancer Diagnostics and Treatments.

Date: November 12–13, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW, Washington, DC 20015.

Contact Person: Zhang-Zhi Hu, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6186, MSC 7804, Bethesda, MD 20892, (301) 437–8135, *huzhuang@csr.nih.gov*.

Name of Committee: AIDS and Related Research Integrated Review Group; HIV Immunopathogenesis and Vaccine Development Study Section.

Name of Committee: November 13–14, 2018.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

Contact Person: Shiv A. Prasad, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892, 301–443–5779, *prasads@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Infectious Diseases and Microbiology AREA Review.

Date: November 13, 2018.

Time: 8:30 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Liangbiao Zheng, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3202, MSC 7808, Bethesda, MD 20892, 301–996–5819, *zhengli@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: October 11, 2018.

David D. Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–22632 Filed 10–16–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute on Aging Special Emphasis Panel, October 11, 2018, 12:00 p.m. to October 11, 2018, 04:00 p.m., National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2W200, Bethesda, MD, 20892 which was published in the **Federal Register** on August 23, 2018, 83 FR 42672.

The meeting notice is amended to change the date of the meeting from October 11, 2018 to October 26, 2018. The meeting is closed to the public.

Dated: October 11, 2018.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–22619 Filed 10–16–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Heart, Lung, and Blood Initial Review Group; NHLBI Mentored Transition to Independence Review Committee

Date: November 8–9, 2018

Time: 8:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications

Place: The William F. Bolger Center, 9600 Newbridge Drive, Potomac, MD 20854

Contact Person: Giuseppe Pintucci, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7192, Bethesda, MD 20892, 301–435–0287, *Pintuccig@nhlbi.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: October 12, 2018.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–22620 Filed 10–16–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Environmental Health Sciences Review Committee.

Date: November 1–2, 2018.

Time: 8:30 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Garden Inn, Durham Southpoint, 7007 Fayetteville Road, Durham, NC 27713.

Contact Person: Linda K. Bass, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institute Environmental Health Sciences, P.O. Box 12233, MD EC–30, Research Triangle Park, NC 27709, 984–287–3236, *bass@niehs.nih.gov*.

Name of Committee: National Institute of Environmental Health Sciences; Special Emphasis Panel—K99/R00—Independent Awards.

Date: November 7, 2018.

Time: 11:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: NIEHS/National Institutes of Health, Keystone Building, 530 Davis Drive, Suite 3118, Research Triangle Park, NC 27709 (Telephone Conference Call).

Contact Person: Janice B. Allen, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institute of Environmental Health Science, Research Triangle Park, NC 27709, 919/541–7556.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: October 12, 2018.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–22631 Filed 10–16–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2018–0789]

Information Collection Request to Office of Management and Budget; OMB Control Number: 1625–0069

AGENCY: Coast Guard, DHS.

ACTION: Notice; correction.

SUMMARY: The Coast Guard published a document in the **Federal Register** on September 6, 2018, concerning a sixty-day notice requesting comments on an Information Collection Request to the Office of Management and Budget, Office of Information and Regulatory Affairs, requesting an extension of its approval for the following collection of information: 1625–0069, Ballast Water Management Reporting and Recordkeeping; without change. The document contained an error in the document title in the header.

FOR FURTHER INFORMATION CONTACT: Mr. Anthony Smith, Office of Information Management, telephone 202–475–3532, or fax 202–372–8405.

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of September 6, 2018, in FR Doc. 2018–19327, on page 45266, in the second column, in the header, correct the title of the document to read:

Information Collection Request to Office of Management and Budget; OMB Control Number: 1625–0069

Dated: October 11, 2018.

James D. Roppel,

Acting Chief, U.S. Coast Guard, Office of Information Management.

[FR Doc. 2018–22553 Filed 10–16–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2018–0792]

Information Collection Request to Office of Management and Budget; OMB Control Number: 1625–0035

AGENCY: Coast Guard, DHS.

ACTION: Notice; correction.

SUMMARY: The Coast Guard published a document in the **Federal Register** on September 6, 2018, concerning a sixty-day notice requesting comments on an Information Collection Request to the Office of Management and Budget, Office of Information and Regulatory Affairs, requesting an extension of its approval for the following collection of information: 1625–0035, Title 46 CFR Subchapter Q: Lifesaving, Electrical, Engineering and Navigation Equipment, Construction and Materials & Marine Sanitation Devices (33 CFR part 159); without change. The document contained an error in the information collection request section.

FOR FURTHER INFORMATION CONTACT: Mr. Anthony Smith, Office of Information Management, telephone 202–475–3532, or fax 202–372–8405.

SUPPLEMENTARY INFORMATION:.

Correction

In the **Federal Register** of September 6, 2018, in FR Doc. 2018–19326, on page 45267, in the third column, correct the ''Need'' section to read:

Need: Tile 46 U.S.C. 2103, 3306, 3703, and 4302 authorize the Coast Guard to establish safety equipment and material regulations. Title 46 CFR parts 159 to 164 prescribe these requirements. Title 33 U.S.C. 1322 authorizes the Coast Guard to establish MSD regulations. Title 33 CFR part 159 prescribes these rules. NVIC 8–01 (Chg 3) prescribes the standards for navigation equipment. This information is used to determine whether manufacturers are in compliance with Coast Guard regulations. When the Coast Guard approves any safety equipment, material or MSD for use on a commercial vessel or pleasure craft, the manufacturer is issued a Certificate or Approval.

Dated: October 11, 2018.

James D. Roppel,

U.S. Coast Guard, Acting Chief, Office of Information Management.

[FR Doc. 2018–22552 Filed 10–16–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0015]

Agency Information Collection Activities: Application for Extension of Bond for Temporary Importation

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 60-Day notice and request for comments; extension of an existing collection of information.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and must be submitted (no later than December 17, 2018) to be assured of consideration.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice must include the OMB Control Number 1651–0015 in the subject line and the agency name. To avoid duplicate submissions, please use only *one* of the following methods to submit comments:

(1) *Email.* Submit comments to: *CBP_PRA@cbp.dhs.gov.*

(2) *Mail.* Submit written comments to CBP Paperwork Reduction Act Officer, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Economic Impact Analysis Branch, 90 K Street NE, 10th Floor, Washington, DC 20229–1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229–1177, Telephone number (202) 325–0056 or via email *CBP_PRA@cbp.dhs.gov.* Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP website at *https://www.cbp.gov/.*

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) 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) 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) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Application for Extension of Bond for Temporary Importation.

OMB Number: 1651–0015.

Form Number: CBP Form 3173.

Abstract: Imported merchandise which is to remain in the customs territory for a period of one year or less without the payment of duties is entered as a temporary importation, as authorized under the Harmonized Tariff Schedule of the United States (19 U.S.C. 1202). When this time period is not sufficient, it may be extended by submitting an application on CBP Form 3173, ''*Application for Extension of Bond for Temporary Importation.*'' This form is provided for by 19 CFR 10.37 and is accessible at: *https://www.cbp.gov/newsroom/publications/forms?title=3173.*

Current Actions: CBP proposes to extend the expiration date of this information collection with no changes to the burden hours or to Form 3173.

Type of Review: Extension (without change).

Affected Public: Businesses.

Estimated Number of Respondents: 1,200.

Estimated Number of Annual Responses per Respondent: 14.

Estimated Total Annual Responses: 16,800.

Estimated Time per Response: 13 minutes.

Estimated Total Annual Burden Hours: 3,646.

Dated: October 11, 2018.

Seth D. Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2018–22512 Filed 10–16–18; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Nationwide Cyber Security Review Assessment

AGENCY: Office of Cybersecurity and Communications (CS&C), National Protection and Programs Directorate (NPPD), Department of Homeland Security (DHS).

ACTION: 30-Day Notice and request for comments; New Collection, 1670–NEW.

SUMMARY: DHS NPPD CS&C will submit the following information collection request (ICR) to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. DHS previously published this information collection request (ICR) in the **Federal Register** on Thursday, July 5, 2018 at 83 FR 31412 for a 60-day public comment period. 0 comments were received by DHS. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: Comments are encouraged and will be accepted until November 16, 2018.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to OMB Desk Officer, Department of Homeland Security and sent via electronic mail to *dhsdeskofficer@omb.eop.gov.* All submissions must include the words ''Department of Homeland Security'' and the OMB Control Number 1670–NEW—Nationwide Cyber Security Review Assessment.

Comments submitted in response to this notice may be made available to the public through relevant websites. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. If you send an email comment, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. Please note that responses to this public comment request containing any routine notice about the confidentiality of the communication will be treated as public comments that may be made available to the public notwithstanding the inclusion of the routine notice.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Donna Beach at 703–705–6213 or at *SLTTCyber@HQ.DHS.GOV.*

SUPPLEMENTARY INFORMATION: In its reports to the Department of Homeland Security Appropriations Act, 2010, Congress requested a Nationwide Cyber Security Review (NCSR) from the National Cyber Security Division (NCSD), the predecessor organization of the Stakeholder Engagement and Cyber Infrastructure Resilience (SECIR) division. S. Rep. No. 111–31, at 91 (2009), H.R. Rep. No. 111–298, at 96 (2009). The House Conference Report accompanying the Department of Homeland Security Appropriations Act, 2010 ''note[d] the importance of a comprehensive effort to assess the security level of cyberspace at all levels of government'' and directed DHS to ''develop the necessary tools for all levels of government to complete a cyber network security assessment so that a full measure of gaps and capabilities can be completed in the near future.'' H.R. Rep. No. 111–298, at 96 (2009). Concurrently, in its report accompanying the Department of Homeland Security Appropriations Bill, 2010, the Senate Committee on Appropriations recommended that DHS ''report on the status of cyber security measures in place, and gaps in all 50 States and the largest urban areas.'' S. Rep. No. 111–31, at 91 (2009).

The Homeland Security Act of 2002, as amended, established ''a national cybersecurity and communications integration center [NCCIC] . . . to carry out certain responsibilities of the Under Secretary,'' including the provision of assessments. 6 U.S.C. 148(b). The Act also directs the composition of the NCCIC to include an entity that collaborates with State and local governments on cybersecurity risks and incidents, and has entered into a voluntary information sharing relationship with the NCCIC. 6 U.S.C. 148(d)(1)(E). The Multistate Information Sharing and Analysis Center (MS–ISAC) currently fulfills this function. NPPD funds the MS–ISAC through a Cooperative Agreement and maintains a close relationship with this entity. As part of the Cooperative Agreement, DHS directs the MS–ISAC to produce the NCSR as contemplated by Congress.

Generally, NPPD has authority to perform risk and vulnerability assessments for Federal and non-Federal entities, with consent and upon request. The NCCIC performs these assessments in accordance with its authority to provide voluntary technical assistance to Federal and non-Federal entities. See 6 U.S.C. 148(c)(6), 143(2). This authority

is consistent with the Department's responsibility to ''[c]onduct comprehensive assessments of the vulnerabilities of the Nation's critical infrastructure in coordination with the SSAs [Sector-Specific Agencies] and in collaboration with SLTT [State, Local, Tribal, and Territorial] entities and critical infrastructure owners and operators.'' Presidential Policy Directive (PPD)–21, at 3. A private sector entity or state and local government agency also has discretion to use a self-assessment tool offered by NPPD or request NPPD to perform an on-site risk and vulnerability assessment. See 6 U.S.C. 148(c)(6), 143(2), 6 U.S.C. 121(d)(2). The NCSR is a voluntary annual self-assessment.

Upon submission of the first NCSR report in March 2012, Congress further clarified its expectation ''that this survey will be updated every other year so that progress may be charted and further areas of concern may be identified.'' S. Rep. No. 112–169, at 100 (2012). In each subsequent year, Congress has referenced this NCSR in its explanatory comments and recommendations accompanying the Department of Homeland Security Appropriations. Consistent with Congressional mandates, SECIR developed the NCSR to measure the gaps and capabilities of cybersecurity programs within SLTT governments. Using the anonymous results of the NCSR, DHS delivers a bi-annual summary report to Congress that provides a broad picture of the current cybersecurity gaps & capabilities of SLTT governments across the nation.

The assessment allows SLTT governments to manage cybersecurity related risks through the NIST Cybersecurity Framework (CSF) which consists of best practices, standards and guidelines. In efforts of continuously providing Congress with an accurate representation of the SLTT governments' cybersecurity programs gaps and capabilities the NCSR question sets and surveys may slightly change from year-to-year to accurately reflect the current cybersecurity environment.

The NCSR is an annual voluntary self-assessment that is hosted on the RSA Archer Suite, which is a technology platform that provides a foundation for managing policies, controls, risks, assessments, and deficiencies across organizational lines of business. The NCSR self-assessment runs every year from October–December. In efforts of increasing participation, the deadline is sometimes extended. The target audience for the NCSR are personnel within the SLTT community who are responsible for the cybersecurity management within their organization.

Through the NCSR, DHS & MS–ISAC will examine relationships, interactions, and processes governing IT management and the ability to effectively manage operational risk. Using the anonymous results of the NCSR, DHS delivers a bi-annual summary report to Congress that provides a broad picture of the cybersecurity gaps & capabilities of SLTT governments across the nation. The bi-annual summary report is shared with MS–ISAC members, NCSR End Users, and Congress. The report is also available on the MS–ISAC website, *https://www.cisecurity.org/ms-isac/services/ncsr/*.

Upon submission of the NCSR self-assessment, participants will immediately receive access to several reports specific to their organization and their cybersecurity posture. Additionally, after the annual NCSR survey closes there will be a brief NCSR End User Survey offered to everyone who completed the NSCR assessment. The survey will provide feedback on participants' experiences, such as from how they heard about the NCSR, what they found or did not find useful, how they will utilize the results of their assessment, and other information about their current and future interactions with the NCSR.

Additionally, MS–ISAC will administer a survey to those who were registered participants in the past and did not register or complete the most recent NCSR. The purpose of the Non-Response Survey is to solicit feedback on ways the NSCR could be improved to maximize benefits and increase response rates in the future.

The NCSR assessment requires approximately two hours for completion and is located on the RSA Archer Suite. During the assessment period, participants can respond at their own pace with the ability to save their progress during each session. If additional support is needed, participants can contact the NCSR helpdesk via phone and email.

The NCSR End User survey will be fully electronic. It contains less than 30 multiple choice and fill-in-the-blank answers and takes approximately 10 minutes to complete. The feedback survey will be administered via Survey Monkey and settings will be updated to opt out of collecting participants' IP addresses.

The Non-Response Survey will be fully electronic and take approximately 10 minutes to complete. The survey will be administered via Survey Monkey and settings will be updated to opt out of collecting participants' IP addresses.

This is a new information collection.

OMB is particularly interested in comments that:

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.

Title of Collection: Nationwide Cyber Security Review Assessment.

OMB Control Number: 1670–NEW.

Frequency: Annually.

Affected Public: State, Local, Tribal, and Territorial entities.

Number of Respondents: 591.

Estimated Time per Respondent: 2 hours.

Total Burden Hours: 1,278.

Total Burden Cost (capital/startup): $0.

Total Recordkeeping Burden: $0.

Total Burden Cost (operating/maintaining): $0.

David Epperson,

Chief Information Officer.

[FR Doc. 2018–22548 Filed 10–16–18; 8:45 am]

BILLING CODE 9110–9P–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2018–0058]

Telecommunications Service Priority System

AGENCY: Office of Cybersecurity and Communications (CS&C), National Protection and Programs Directorate (NPPD), Department of Homeland Security (DHS).

ACTION: 60-Day Notice and request for comments; Extension, 1670–0005.

SUMMARY: DHS NPPD CS&C will submit the following Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted until December 17, 2018.

ADDRESSES: You may submit comments, identified by docket number DHS–2018–0058, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Please follow the instructions for submitting comments.
- *Email: deborah.bea@HQ.DHS.GOV.* Please include docket number DHS–2018–0058 in the subject line of the message.
- *Mail:* Written comments and questions about this Information Collection Request should be forwarded to DHS/NPPD/CS&C/OEC, ATTN: 1670–0005, 245 Murray Lane, SW, Mail Stop 0615, Deborah Bea, Arlington, VA 20528.

Instructions: All submissions received must include the words ''Department of Homeland Security'' and the docket number for this action. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided.

Comments submitted in response to this notice may be made available to the public through relevant websites. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. If you send an email comment, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. Please note that responses to this public comment request containing any routine notice about the confidentiality of the communication will be treated as public comments that may be made available to the public notwithstanding the inclusion of the routine notice.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Deborah Bea at 703.705.6302 or at *deborah.bea@HQ.DHS.GOV.*

SUPPLEMENTARY INFORMATION:

Telecommunications Service Priority (TSP) is authorized by E.O. 12472, E.O. 13618 and 47 CFR part 64. The DHS Office of Emergency Communications (OEC) uses the TSP Program to authorize national security and emergency preparedness organizations to receive priority treatment for vital voice and data circuits or other telecommunications service, under National Security or Emergency Preparedness telecommunications (NS/EP). The TSP Program provides service vendors a Federal Communications Commission (FCC) mandate to prioritize requests by identifying those services critical to national security and emergency preparedness. A TSP assignment ensures that it will receive priority attention by the service vendor before any non-TSP service.

Four broad categories serve as guidelines for determining whether a circuit or telecommunications service is eligible for priority provisioning or restoration. TSP service user organizations may be in the Federal, State, local, or tribal government, critical infrastructure sectors in industry, non-profit organizations that perform critical NS/EP functions, or foreign governments. Typical TSP service users are responsible for the command and control functions critical to management of and response to NS/EP situations, particularly during the first 24 to 72 hours following an event.

Information to request a priority, to obtain a sponsor for requesting a priority, and for other administrative requirements of the program is required from any person or organization having an NS/EP service for which they wish priority restoration from the vendor providing the service. Information is also required to allow immediate installation of a new service to support NS/EP requirements. Information is required from vendors to allow the OEC to track and identify the telecommunications services that are being provided priority treatment.

The forms used are the SF314 (Revalidation for Service Users), SF315 (TSP Request for Service Users), SF317 (TSP Action Appeal for Service Users), SF318 (TSP Service Confirmation for Service Vendors), and the SF319 (TSP Service Reconciliation for Service Vendors). The SF314 is for users to request that their existing TSP codes be revalidated for three more years. The SF315 is used to request restoration and/or provisioning for an organization's critical circuits. The SF317 is for organizations to appeal the denial of TSP restoration and/or provisioning. The SF318 is for service vendors to provide circuit ID information associated with TSP codes they've been given by their customers. The SF319 is for service vendors to provide data to the program office in order to reconcile their TSP data with the TSP database. Participants request TSP priorities via email in order to reduce the use of the paper forms. The paper forms will also be available for download via the TSP home page.

There have been no changes to the information being collected. The burden for the SF315 Form has increased due to better estimates, and the annual cost burden to respondents and annual government cost has increased due to increased wage rates and compensation factors.

This is a renewal of an information collection.

OMB is particularly interested in comments that:

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.

Title of Collection: Telecommunications Service Priority System.

OMB Control Number: 1670–0005.

Frequency: Annually.

Affected Public: State, Local, Tribal, and Territorial Governments and Private Sector.

Number of Respondents: 38,666.

Estimated Time per Respondent: 0.64 hours.

Total Burden Hours: 10,354 hours.

Total Burden Cost (capital/startup): $0.

Total Recordkeeping Burden: $0.

Total Burden Cost (operating/maintaining): $0.

David Epperson,

Chief Information Officer.

[FR Doc. 2018–22549 Filed 10–16–18; 8:45 am]

BILLING CODE 9110–9P–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6083–N–03]

Manufactured Housing Consensus Committee (MHCC): Notice Inviting Nominations of Individuals To Serve on the Committee

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of request for nominations to serve on the

Manufactured Housing Consensus Committee.

SUMMARY: The Department of Housing and Urban Development invites the public to nominate individuals for appointment, with the approval of the Secretary, to the Manufactured Housing Consensus Committee (MHCC), a federal advisory committee established by the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended by the Manufactured Housing Improvement Act of 2000. The Department will make appointments from nominations submitted in response to this Notice. Also, individuals that applied earlier this year do not need to re-apply; pursuant to this notice those applications are on file and may be considered for future appointments.

DATES: The Department will accept nominations until *November 16, 2018.*

ADDRESSES: Nominations must submit through the following website: *http://mhcc.homeinnovation.com/Application.aspx.* The submitted nominations are addressed to: Teresa B. Payne, Acting Administrator, Office of Manufactured Housing Programs, Department of Housing and Urban Development, c/o Home Innovation Research Labs; Attention: Kevin Kauffman, 400 Prince Georges Blvd., Upper Marlboro, MD 20774.

FOR FURTHER INFORMATION CONTACT: Teresa B. Payne, Acting Administrator, Office of Manufactured Housing Programs, Department of Housing and Urban Development, 451 7th Street SW, Room 9164, Washington, DC 20410–8000; telephone number 202–708–5365 (this is not a toll-free number). For hearing and speech-impaired persons, this number may be accessed via TTY by calling the Federal Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

Section 604 of the Manufactured Housing Improvement Act of 2000 (Pub. L. 106–569) amended the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5401–5426) (Act) to require the establishment of the MHCC, a federal advisory committee, to: (1) Provide periodic recommendations to the Secretary to adopt, revise, and interpret the manufactured housing construction and safety standards; and (2) to provide periodic recommendations to the Secretary to adopt, revise, and interpret the procedural and enforcement manufactured housing regulations, including regulations specifying the permissible scope and conduct of monitoring. The Act authorizes the Secretary to appoint a total of twenty-two members to the MHCC. Twenty-one members have voting rights; the twenty-second member represents the Secretary and is a non-voting position. Service on the MHCC is voluntary. Travel and per diem for meetings is provided in accordance with federal travel policy pursuant to 5 U.S.C. 5703.

HUD seeks highly qualified and motivated individuals who meet the requirements set forth in the Act to serve as voting members of the MHCC for up to two terms of three years. The MHCC expects to meet at least one to two times annually. Meetings may take place by conference call or in person. Members of the MHCC undertake additional work commitments on subcommittees and task forces regarding issues under deliberation.

Nominee Selection and Appointment

Members of the Consensus Committee are appointed to serve in one of three member categories. Nominees will be appointed to fill voting member vacancies in the following categories:

1. *Producers*—Seven producers or retailers of manufactured housing.

2. *Users*—Seven persons representing consumer interests, such as consumer organizations, recognized consumer leaders, and owners who are residents of manufactured homes.

3. *General Interest and Public Officials*—Seven general interest and public official members.

The Act provides that the Secretary shall ensure that all interests directly and materially affected by the work of the MHCC have the opportunity for fair and equitable participation without dominance by any single interest; and may reject the appointment of any one or more individuals in order to ensure that there is not dominance by any single interest. For purposes of this determination, dominance is defined as a position or exercise of dominant authority, leadership, or influence by reason of superior leverage, strength, or representation.

Additional requirements governing appointment and member service include:

(1) Nominees appointed to the User category, and three of the individuals appointed to the General Interest and Public Official category shall not have a significant financial interest in any segment of the manufactured housing industry; or a significant relationship to any person engaged in the manufactured housing industry.

(2) Each member serving in the User category shall be subject to a ban disallowing compensation from the manufactured housing industry during the period of, and during the one year following, his or her membership on the MHCC.

(3) Nominees selected for appointment to the MHCC shall be required to provide disclosures and certifications regarding conflict-of-interest and eligibility for membership prior to finalizing an appointment.

All selected nominees will be required to submit certifications of eligibility under the foregoing criteria as a prerequisite to final appointment.

Consensus Committee—Advisory Role

The MHCC's role is to solely advise the Secretary on the subject matter described above.

Federal Advisory Committee Act

The MHCC is subject to the requirements of the Federal Advisory Committee Act (5 U.S.C. Appendix), 41 CFR parts 101–6 and 102–3 (the FACA Final Rule), and to the Presidential Memorandum, dated June 18, 2010, directing all heads of executive departments and agencies not to make any new appointments or reappointments of federally registered lobbyists to advisory committees and other boards and commissions. The June 18, 2010, Presidential Memorandum authorized the Director of the Office of Management and Budget (OMB) to issue guidance to implement this policy. On August 13, 2014 (79 FR 47482), OMB issued guidance regarding the prohibition against appointing or re-appointing federally registered lobbyists to clarify that the ban applies to persons serving on advisory committees, boards, and commissions in their individual capacity and does not apply if they are specifically appointed to represent the interests of a nongovernmental entity, a recognizable group of persons or nongovernmental entities (an industry sector, labor unions, environmental groups, etc.), or state or local governments.

Term of Office

Consensus Committee members serve at the discretion of the Secretary or for a three-year term and for up to two terms.

Nominee Information

Individuals seeking nomination to the MHCC should submit detailed information documenting their qualifications as addressed in the Act and this Notice. Individuals may nominate themselves. HUD recommends that the application form be accompanied by a resume.

Additional Information

The Department will make appointments from nominations submitted in response to this Notice. Also, individuals that applied earlier this year do not need to re-apply; pursuant to this notice those applications are on file and may be considered for future appointments.

To be considered for appointment to a position of an MHCC member whose term expires in December of 2018, the nomination should be submitted by November 16, 2018. Appointments will be made at the discretion of the Secretary.

Dated: October 10, 2018.

Vance T. Morris,

Special Assistant to the Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 2018–22644 Filed 10–16–18; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7004–N–02]

60-Day Notice of Proposed Information Collection; Maintenance Wage Rate Recommendation, Maintenance Wage Rate Survey and Maintenance Wage Survey—Summary Sheet

AGENCY: Office of Field Policy and Management, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* December 17, 2018.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Anna P. Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–5534 (this is not a toll-free number) or email at *Anna.P.Guido@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Suzette Agans, Office of Policy and Management/Davis-Bacon Labor Standards and Enforcement, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Ms. Agans at *Suzette.Agans@hud.gov* or telephone (202) 402–5089. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Agans.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Information collection	Number of respondents	Frequency of response	Responses per Ann	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
HUD 4750	1381	Bi-Annually	1381	1381	1	$28	$38,668
HUD 4751	1133	Bi-Annually	1133	3399	3	28	95,172
HUD 4752	1133	Bi-Annually	1133	1133	1	28	31,724
Total							165,564

Note: HUD now requires this information every 2 years and the table reflects this change.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) 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) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(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 collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: August 23, 2018.

Nelson R. Bregón,

Associate Assistant Deputy Secretary, Office of Field Policy and Management.

[FR Doc. 2018–22645 Filed 10–16–18; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[RR83530000, 189R5065C6, RX.59389832.1009676]

National Environmental Policy Act Implementing Procedures for the Bureau of Reclamation (516 DM 14)

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of proposed revisions; request for comments.

SUMMARY: This notice announces the intent to revise the Bureau of Reclamation (Reclamation) procedures for compliance with the National Environmental Policy Act of 1969 (NEPA) in the Departmental Manual (DM) at 516 DM 14. The proposed revisions are to establish a new Categorical Exclusion (CE) for the

transfer of title of certain projects and facilities from Reclamation to a qualifying non-Federal project entity. The new CE would allow for more efficient review of appropriate title transfer actions. This notice is also an invitation to comment on Reclamation's proposed new CE.

DATES: Submit written comments on or before November 16, 2018.

ADDRESSES: Send written comments on the proposed new CE to Title Transfer CE Coordinator, Bureau of Reclamation, Mail Stop 84–53000, Denver Federal Center, Denver, CO 80523; or by email to *ttce@usbr.gov.* The public can review the CE substantiation documentation at *www.usbr.gov/title.* The web address for Reclamation's current procedures, at Series 31, Part 516, Chapter 14, dated May 27, 2004, is *https://www.doi.gov/elips/browse.*

FOR FURTHER INFORMATION CONTACT: Ms. Catherine Cunningham, Environmental Compliance Division, Bureau of Reclamation, (303) 445–2875; or via email at *ttce@usbr.gov.*

SUPPLEMENTARY INFORMATION:

Background

Reclamation was founded in 1902. Its original mission was one of civil works construction to develop the water resources of the arid Western United States to promote the settlement and economic development of that region. Results are well known in the hundreds of projects that were developed to store and deliver water. That substantial infrastructure made Reclamation the largest wholesale supplier of water and the second largest producer of hydropower in the United States.

Title Transfer

Title transfer is a voluntary conveyance of ownership (title) for water projects, portions of projects, or project facilities such as dams, canals, laterals, and other water-related infrastructure and facilities to beneficiaries of those facilities. Title transfer divests Reclamation of responsibility for the operation, maintenance, management, regulation of, and liability for the project, lands, and facilities to be transferred. It also provides the non-Federal entity with greater autonomy and flexibility to manage the facilities to meet their needs, in compliance with Federal, state, and local laws and in conformance with contractual obligations. The transfer of title of a project or set of facilities will, in effect, sever Reclamation's ties with that project or those conveyed facilities.

Under the Reclamation Act of 1902, the responsibility for operations, maintenance, and replacement of facilities can be, and often is, contractually transferred to the water users. Title or ownership of facilities and projects, however, must remain with the United States until Congress specifically authorizes their transfer. Since 1995, Reclamation has been working closely with qualifying entities of specific projects and has conveyed over 30 projects and/or project-related facilities, including dams, reservoirs, canals, laterals, buildings, project lands, and easements.

Transfer of title is a Federal action under NEPA. NEPA requires that when a major Federal action would have significant impacts on the quality of the human environment, a statement be prepared to describe the impacts and effects on the human environment associated with the Federal action. When a Federal agency determines that a certain category of actions will not normally have an individually or cumulatively significant effect on the human environment and for which neither an environmental assessment nor an environmental impact statement is required, that category of actions may be excluded from further NEPA review (40 CFR 1508.4).

Reclamation proposes to establish a new CE to facilitate the transfer of title to a limited set of simple, uncomplicated projects and/or project facilities. The new CE would be added to the DM at 516, chapter 14, in section 14.5, paragraph F. entitled, ''Title Transfer Activities.''

Text of Proposed Addition to 516 DM 14, Section 14.5 Categorical Exclusion

F. Title Transfer Activities

(1) ''*Transfer from Federal ownership of facilities and/or interest in lands to a qualifying entity where there are no competing demands for use of the facilities, where the facilities are not hydrologically integrated, where, at the time of transfer, there would be no planned change in land or water use, or in operation, or maintenance of the facilities and where the transfer would be consistent with the Secretary's responsibilities, including but not limited to the protection of land and water resources held in trust for federally recognized Indian tribes and ensuring compliance with international treaties and interstate compacts.*''

The CE would be limited to the transfer of projects and/or project facilities from Federal ownership to a qualifying entity, which means an agency of State or local government or Indian tribe, a municipal corporation, quasi-municipal corporation, or other entity such as a water district that, as determined by the Secretary, has the capacity to continue to manage the conveyed property for the same purposes for which the property has been managed under Reclamation law. Accordingly, projects involving the following considerations of a qualifying non-Federal entity would generally be *eligibl*e to be considered for the title transfer CE:

1. The potential transferee must demonstrate the technical capability to maintain and operate the facilities and lands on a permanent basis and an ability to meet financial obligations associated with the transferred assets.

2. The potential transferee must affirm that they have no plans to change the maintenance, operations, or use of the lands and water associated with the transferred facilities.

3. The potential transferee must ensure that there are no competing demands for use of the transferred facilities.

4. The potential transferee must ensure that the facilities proposed for transfer are not hydrologically integrated with other facilities thereby impacting other contractors, stakeholders or activities.

5. The potential transferee must ensure that the United States' Native American trust responsibilities are satisfied prior to taking the action. Outstanding Native American claims that are pending before the Department of the Interior (Department) and that would be affected by the proposed transfer must be resolved prior to application of the CE to the transfer.

6. The potential transferee must ensure that issues involving interstate compacts and agreements are resolved and treaty and international agreement obligations are fulfilled prior to transfer.

7. The potential transferee must assume responsibility for all commitments and agreements into the future.

8. Potentially affected state, local, and tribal governments, appropriate Federal agencies, and the public will be notified of the initiation of discussion to transfer title and will have: (a) The opportunity to voice their views and suggest options for remedying any problems; and (b) full access to relevant information, including proposals, analyses, and reports related to the proposed transfer. The title transfer process will be carried out in an open and public manner. Once Reclamation has negotiated an agreement with a transferee, Reclamation will seek legislation to

authorize the negotiated terms of the transfer of each project or facility.

Eligibility for this CE would be determined by Reclamation, based on results of on-site inspections, surveys, and other methods of evaluation and documentation prepared by Reclamation to determine the presence or absence of the exceptions. To determine that a proposed title transfer fits within the CE, Reclamation would review the proposal to determine that all the following apply:

1. The Departmental extraordinary circumstances listed at 43 CFR 46.215 would not be triggered by the title transfer action.

2. The title transfer action would not change:

a. Operation and maintenance of the facilities or lands transferred;

b. land or water use.

3. The title transfer action would not involve any unresolved issue associated with compliance with interstate compacts and agreements; meeting the Secretary's Native American trust responsibilities; fulfilling treaty and international agreement obligations.

Even for a title transfer action that meets these criteria, Reclamation may, within its discretion, decide to prepare an Environmental Assessment (EA) or an Environmental Impact Statement (EIS) instead of applying the CE.

Basis for Establishing the Categorical Exclusion

To date, Reclamation has prepared EAs and made findings of no significant impact (FONSI) on each of the eight projects shown below, indicating location and EA/FONSI date. These EAs and FONSIs substantiate Reclamation's record to demonstrate that no individually or cumulatively significant effects are typically attributable to the eligible types of activities that would be included in the proposed CE. The EA and FONSI documentation for the following projects is available at *www.usbr.gov/title:*

1. Clear Creek Unit, Central Valley Project, California, 1998.

2. Distribution System to Carpinteria Valley Water District, California, 2000.

3. Distribution System to the Montecito Water District, California, 2001.

4. Robert B. Griffith Water Project, Nevada, 2001.

5. McGee Creek, Oklahoma, 2006.

6. Newlands Project Headquarters and Maintenance Yard Conveyance, Nevada, 2007.

7. Arbuckle (partial), Oklahoma, 2014.

8. Water Distribution System to Goleta Water District, California, 2007 (transfer pending).

Reclamation has prepared two EISs on title transfer proposals and two EAs for projects that involved more complex actions than those that would meet the eligibility criteria. Reclamation has also prepared 12 EAs and FONSIs on title transfer proposals for which mitigation was applied to reduce impacts to less than significant. Several of these proposals involved issues of concern including sites of interest to tribal communities and adverse effects to historic properties.

The full complement of these EAs, FONSIs, and EISs and Reclamation's knowledge and experience contribute to the body of work Reclamation has used to analyze its title transfer actions and validate its definition of projects for which the proposed CE would be used. Based on the consideration of the types of projects that meet the eligibility and exception criteria above, Reclamation proposes to determine that this category of actions would not individually or cumulatively have a significant effect on the quality of the human environment.

Reclamation invites comments on this proposed CE and will consider all comments received. When Reclamation makes a determination on establishing a new CE, the new language would be incorporated into 516 DM 14 under internal Departmental administrative procedures. At that time, Reclamation intends to employ the same internal Departmental administrative procedures to make routine updates to the DM, including references to regulations and policies, organizational changes, and formatting.

Public Disclosure Statement

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: NEPA, the National Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 *et seq.*); E.O. 11514, March 5, 1970, as amended by E.O. 11991, May 24, 1977; and Council on Environmental Quality regulations (40 CFR 1507.3).

Michaela E. Noble,

Director, Office of Environmental Policy and Compliance.

[FR Doc. 2018–22630 Filed 10–16–18; 8:45 am]

BILLING CODE 4332–90–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLES930000.LLES1320000.EL0000]

Notice of Competitive Coal Lease Sale ALES–55199, Alabama; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice; correction.

SUMMARY: The Bureau of Land Management published a document in the **Federal Register** on September 4, 2018, announcing a competitive coal lease sale. The document did not specify the date of the sale. This notice specifies the date of the sale.

FOR FURTHER INFORMATION CONTACT: Randall Mills, telephone: (601) 919–4668, email: *ramills@blm.gov.*

Correction

In the **Federal Register** of September 4, 2018, in FR Doc. 2018–19124, on page 44896, in the second column, correct the ''Dates'' caption to read:

DATES: The coal lease sale will be held at 1 p.m. Central Time (CT), November 29, 2018. Sealed bids must be received on or before 10 a.m. CT on the date of sale.

Karen E. Mouritsen,

State Director.

[FR Doc. 2018–22666 Filed 10–16–18; 8:45 am]

BILLING CODE 4310–GJ–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0026536; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: History Colorado, Formerly Colorado Historical Society, Denver, CO

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: History Colorado, formerly Colorado Historical Society, has completed an inventory of human remains, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and any present-day Indian Tribes or Native Hawaiian organizations. Representatives of any Indian Tribe Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to History Colorado. If no

additional requestors come forward, transfer of control of the human remains to the Indian Tribes or Native Hawaiian organizations stated in this notice may proceed.

DATES: Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to History Colorado at the address in this notice by November 16, 2018.

ADDRESSES: Sheila Goff, NAGPRA Liaison, History Colorado, 1200 Broadway, Denver, CO 80203, telephone (303) 866–4531, email *sheila.goff@state.co.us.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of History Colorado, Denver, CO. The human remains were removed from Montrose County, CO.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by History Colorado professional staff in consultation with representatives of the Arapaho Tribe of the Wind River Reservation, Wyoming; Cheyenne and Arapaho Tribes of Oklahoma (previously listed as the Cheyenne-Arapaho Tribes of Oklahoma); Eastern Shoshone Tribe of the Wind River Reservation, Wyoming (previously listed as the Shoshone Tribe of the Wind River Reservation, Wyoming); Jicarilla Apache Nation, New Mexico; Kiowa Tribe of Oklahoma; Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana; Ohkay Owingeh, New Mexico (previously listed as the Pueblo of San Juan); Pueblo of Santa Clara, New Mexico; Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; Shoshone-Bannock Tribes of the Fort Hall Reservation; Southern Ute Indian Tribe of the Southern Ute Indian Reservation, Colorado; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; Ute Mountain Ute Tribe (previously listed as the Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah); and the Zuni Tribe of the Zuni Reservation, New Mexico. The Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota; and the Pueblo of San Felipe, New Mexico were invited to consult, but did not participate. Hereafter, all the tribes listed above are referred to as ''The Consulted and Invited Tribes.''

History and Description of the Remains

In the 1930s or 1940s, human remains representing, at minimum, one individual were removed from an unspecified location in Paradox Valley, Montrose County, CO, by a private citizen. They were later passed on to other family members and in February 2018, the niece of the collector mailed them to the Office of the State Archeologist, where they are identified as Office of Archeology and Historic Preservation (OAHP) Case Number 329. The Montrose County Coroner ruled out forensic interest in the human remains. Osteological analysis by Dr. Diane France of the Human Identification Laboratory of Colorado indicates that the human remains are of Native American ancestry and are archeological. No known individuals were identified. No associated funerary objects are present.

History Colorado, in partnership with the Colorado Commission of Indian Affairs, Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado, and the Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah, conducted tribal consultations among the tribes with ancestral ties to the State of Colorado to develop the process for disposition of culturally unidentifiable Native American human remains and associated funerary objects originating from inadvertent discoveries on Colorado State and private lands. As a result of the consultation, a process was developed, *Process for Consultation, Transfer, and Reburial of Culturally Unidentifiable Native American Human Remains and Associated Funerary Objects Originating From Inadvertent Discoveries on Colorado State and Private Lands,* (2008, unpublished, on file with the Colorado Office of Archeology and Historic Preservation). Pursuant to the Process, the tribes consulted are those who have expressed their wishes to be notified of discoveries in the Basin and Plateau Consultation Region, (which is where this individual originated).

The Native American Graves Protection and Repatriation Review Committee (Review Committee) is responsible for recommending specific actions for disposition of culturally unidentifiable human remains. On November 3–4, 2006, the *Process* was presented to the Review Committee for consideration. A January 8, 2007, letter on behalf of the Review Committee from the Designated Federal Officer transmitted the provisional authorization to proceed with the *Process* upon receipt of formal responses from the Jicarilla Apache Nation, New Mexico, and the Kiowa Indian Tribe of Oklahoma, subject to forthcoming conditions imposed by the Secretary of the Interior. On May 15–16, 2008, the responses from the Jicarilla Apache Nation, New Mexico, and the Kiowa Indian Tribe of Oklahoma were submitted to the Review Committee. On September 23, 2008, the Assistant Secretary for Fish and Wildlife and Parks, as the designee for the Secretary of the Interior, transmitted the authorization for the disposition of culturally unidentifiable human remains according to the *Process* and NAGPRA, pending publication of a Notice of Inventory Completion in the **Federal Register**. This notice fulfills that requirement.

43 CFR 10.11 was promulgated on March 15, 2010, to provide a process for the disposition of culturally unidentifiable Native American human remains recovered from tribal or aboriginal lands as established by the final judgment of the Indian Claims Commission or U.S. Court of Claims, a treaty, Act of Congress, or Executive Order, or other authoritative governmental sources. As there is no evidence indicating that the human remains reported in this notice originated from tribal or aboriginal lands, they are eligible for disposition under the *Process.*

Determinations Made by History Colorado

Officials of History Colorado have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of one individual of Native American ancestry based on osteological analysis of the human remains.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and any present-day Indian Tribe.
- Pursuant to 43 CFR 10.16 and the *Process,* the disposition of the human remains may be to the Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado, and the Ute Mountain Ute Tribe (previously listed as

the Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah).

Additional Requestors and Disposition

Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Sheila Goff, NAGPRA Liaison, History Colorado, 1200 Broadway, Denver, CO 80203, telephone (303) 866–4531, email *sheila.goff@state.co.us,* by November 16, 2018. After that date, if no additional requestors have come forward, transfer of control of the human remains to the Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado, and the Ute Mountain Ute Tribe (previously listed as the Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah) may proceed.

History Colorado is responsible for notifying The Consulted and Invited Tribes that this notice has been published.

Dated: September 19, 2018.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2018–22593 Filed 10–16–18; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–DTS#-26621; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting comments on the significance of properties nominated before September 29, 2018, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted by November 1, 2018.

ADDRESSES: Comments may be sent via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C St. NW, MS 7228, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before September 29, 2018. Pursuant to Section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Nominations submitted by State Historic Preservation Officers:

CONNECTICUT

New Haven County

Laurel Beach Casino, 102 6th Ave., Milford, SG100003074

LOUISIANA

Livingston Parish

Denham Springs Commercial Historic District, 100–239 N Range Ave., Denham Springs, SG100003075

Orleans Parish

Holiday Inn Highrise East (Non-Residential Mid-Century Modern Architecture in New Orleans MPS), 6324 Chef Menteur Way, New Orleans, MP100003077

MARYLAND

Baltimore Independent City

Mercantile Deposit and Trust, 111 W Baltimore St., Baltimore (I), SG100003078

MINNESOTA

Hennepin County

District No. 107 School, 22995 Cty. Rd. 10, Corcoran, SG100003081

Ramsey County

Superior Packing Company, 2103 Wabash Ave., Saint Paul, SG100003083

MISSOURI

St. Charles County

Sage Chapel Cemetery, 8500 Veterans Memorial Pkwy., O'Fallon, SG100003087

St. Louis County

Old Webster Historic District, 50–54 W Moody Ave., Webster Groves, BC100003088

St. Louis Independent city

Wilkinson School, 7212 Arsenal St., St. Louis (I), SG100003086

Stockstrom, Charles, House, 3400 Russell Blvd., Saint Louis (I), SG100003089

NEBRASKA

Adams County

Hastings Downtown Historic District (Potash Highway in Nebraska MPS), Roughly bounded by W 3rd St., Burlington Northern RR, N Colorado & N Burlington Aves., Hastings, MP100003090

Hastings Downtown Historic District (Detroit-Lincoln-Denver Highway in Nebraska MPS), Roughly bounded by W 3rd St., Burlington Northern RR, N Colorado & N Burlington Aves., Hastings, MP100003090

Cass County

Dovey, George E., House, 423 N 4th St., Plattsmouth, SG100003091

Leonard, Velosco V., House, 323 N 6th St., Plattsmouth, SG100003092

Dawson County

Cozad Downtown Historic District (Lincoln Highway in Nebraska MPS), Roughly bounded by 9th, 7th, H & F Sts., Cozad, MP100003093

Madison County

Dommer—Haase Farmstead, 2400 W Eisenhower Ave., Norfolk, SG100003094

Stanton County

Stanton Carnegie Library (Carnegie Libraries in Nebraska MPS AD), 1009 Jackpine St., Stanton, MP100003095

Washington County

Marshall, George A., House, 301 N 8th St., Arlington, SG100003096

PENNSYLVANIA

Chester County

Ivy Cottage (West Whiteland Township MRA), 225 W. Lincoln Hwy., Exton, 84003961

WISCONSIN

Milwaukee County

West Mitchell Street Commercial Historic District, Generally bounded by W Forest Home Ave., S 13th, W Historic Mitchell & S 5th Sts., Milwaukee, SG100003103

Walworth County

Bucholtz, Carl and Clara, Farmstead, W425 Miller Rd., East Troy, SG100003104

In the interest of preservation, a *Shortened* comment period has been requested for the following resource:

NEW YORK

Onondaga County

Dietz, R.E., Company Factory (Industrial Resources in the City of Syracuse, Onondaga County, NY MPS), 225 Wilkinson St., Syracuse, MP100003097, Comment period: 3 days

An owner objection was received for the following resource:

OREGON

Umatilla County

Weston Methodist Episcopal Church, 402 E Main St., Weston, SG100003100

A request for removal has been made for the following resources:

MINNESOTA

Big Stone County

Columbian Hotel, 305 2nd St., NW, Ortonville, OT85001766

Carver County

Hebeisen, Jacob, House (Carver County MRA), Off Co. Hwy. 50, Hamburg, OT80001976

Pine County

Cloverton School (Pine County MRA), CR 32, Askov vicinity, OT80002104

Redwood County

Delhi Coronet Band Hall, 3rd St., Delhi, OT84001687

Wright County

Albertville Roller Mill (Wright County MRA), 5790 Main Ave. NE, Albertville, OT79001258

Additional documentation has been received for the following resource:

MINNESOTA

Carver County

Peterson, Andrew, Farmstead, NE of Waconia on MN 5, Waconia vicinity, AD79003713

OREGON

Deschutes County

Drake Park Neighborhood Historic District, Roughly bounded by Broadway St., Riverside Blvd., Turnalo Ave., Franklin Ave., Bend, AD05000380

Marion County

Odd Fellows Rural Cemetery, 2201 Commercial St. SE, Salem, AD13000707

Authority: Section 60.13 of 36 CFR part 60.

Dated: October 2, 2018.

Julie H. Ernstein,

Acting Chief, National Register of Historic Places/National Historic Landmarks Program and Deputy Keeper of the National Register of Historic Places.

[FR Doc. 2018–22524 Filed 10–16–18; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0026498; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Arizona State Museum, University of Arizona, Tucson, AZ

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Arizona State Museum, University of Arizona, has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and associated funerary objects and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the Arizona State Museum, University of Arizona. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the Arizona State Museum at the address in this notice by November 16, 2018.

ADDRESSES: John McClelland, NAGPRA Coordinator, P.O. Box 210026, Arizona State Museum, University of Arizona, Tucson, AZ 85721, telephone (520) 626–2950, email *jmcclell@email.arizona.edu*.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the Arizona State Museum (ASM), University of Arizona, Tucson, AZ. The human remains and associated funerary objects were removed from Pima, Pinal, Cochise, Graham, Greenlee, Santa Cruz, and Maricopa Counties, AZ.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the ASM professional staff in consultation with representatives of the Ak-Chin Indian Community (previously listed as the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona); Cocopah Tribe of Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Pascua Yaqui Tribe of Arizona; Quechan Tribe of the Fort Yuma Indian Reservation, California & Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and the Zuni Tribe of the Zuni Reservation, New Mexico, hereafter referred to as ''The Consulted Tribes.''

History and Description of the Remains

In 1963, human remains representing, at minimum, one individual were removed by an unknown individual from an unrecorded site, designated AZ 2000–296, possibly located in the Tucson metropolitan area in Pima County, AZ. This collection was mailed anonymously to the University of Arizona, School of Anthropology from Florida in March 2000. The collection was subsequently brought to ASM. No known individuals were identified. The three associated funerary objects are one ceramic bowl, one ceramic jar, and one ceramic sherd. The human remains likely date to the Hohokam Classic period, A.D. 1150–1450, based on ceramic typology.

In 1992, human remains representing, at a minimum, one individual were removed from site AZ AA:12:252(ASM), located in the eastern portion of the Santa Cruz River flood plain in the Tucson Basin, in Pima County, AZ, during testing and data recovery carried out over the course of the Rillito-Toltec Loop Testing and Data Recovery Project. The project was conducted by Archeological Consulting Services under the direction of Barabara Macnider and David Gregory. The human remains were received by ASM in 1994. No known individuals were identified. No associated funerary objects are present. This site is described as a large, multi-component Hohokam sherd and lithic artifact scatter. Based on this description, these human remains date to around A.D. 450–1450, which encompasses the Hohokam cultural sequence.

In 1982, human remains representing, at a minimum, one individual were removed from site AZ AA:16:6(ASM), located west of the Santa Cruz River in the Tucson metropolitan area, Pima County, AZ, during survey and excavation work conducted by the University of Arizona, under the direction of Paul Fish. The human remains were not recognized at the time of the survey. After completion of the

project, the collections were brought to ASM. In 2015, museum staff discovered the human remains in the faunal collections. No known individuals were identified. No associated funerary objects are present. The site is described as a trincheras site—a hilltop site with habitation and/or ceremonial structures with hillside terraces and basalt retaining walls. Petroglyphs and rock mortars are present at this site. The human remains likely date between 8000 B.C. and A.D. 1450, based on the artifacts observed at the site, which encompasses both the Archaic and Hohokam cultural sequences.

1n 1986, human remains representing, at minimum, four individuals were removed from site AZ AA:3:156(ASM), located north of the Picacho Mountains, in Pinal County, AZ, during an archeological survey of the Tucson Basin conducted by ASM, under the direction of John Madsen. The human remains were not recognized at the time of the survey. Collections from this survey were received by ASM in 1986. In 2009, museum staff discovered the human remains in the site survey collections. No known individuals were identified. No associated funerary objects are present. The site is described as a Hohokam habitation area containing trash mounds, undefined depressions, a pit house, and possibly the remains of a compound wall. The human remains likely date to the Hohokam Classic period, A.D. 1150–1450, based on analysis of ceramic materials at the site.

In 1930, human remains representing, at minimum, one individual were removed from site AZ AA:3:16(ASM), located in the Cactus Forest area of the Salt-Gila Basin, in Pinal County, AZ, during excavations conducted by the Gila Pueblo Foundation, under the direction of George Dennis. In 1950, the Gila Pueblo Foundation closed, and this collection was transferred to ASM. No known individuals were identified. The one associated funerary object is a ceramic jar. Ceramics observed at this site indicate that this site was occupied during the Hohokam Classic period, A.D. 1150–1450.

In 1983, human remains representing, at minimum, two individuals were removed from site AZ AA:3:17, located near the Tom Mix Wash in the Salt-Gila Basin, in Pinal County, AZ. The human remains had been disturbed by unknown individuals during unauthorized excavations on Arizona State Trust lands. This activity was reported to ASM by the Pinal County Sherriff's office, and the human remains were collected during a salvage operation conducted by ASM, under the direction of John Madsen. This collection was received by ASM after the salvage work, in 1995. The 11 associated funerary objects are 10 ceramic sherds and one lot of charcoal. The human remains likely date to the Hohokam Classic period, A.D. 1150–1450, based on ceramics and architectural features reported at the site.

In 1929–1930, human remains representing, at minimum, two individuals were removed by Claude Burdette from an unrecorded site, designated AZ AA:7:—Burdette, located in the Red Rock Vicinity, in Pinal County, AZ. Mr. Burdette spent two years collecting in the Red Rock area and reportedly collected many objects, including several vessels containing cremations At an unknown date, this collection was transferred to a museum at Clemson University, in Clemson, South Carolina. After the museum closed, the collection was stored at various campus locations, and many objects were reported lost. In 1992, this collection was transferred to ASM. No known individuals were identified. The one associated funerary object is a shell fragment. The human remains likely date to the Hohokam period, A.D. 450–1450, based on the mortuary context.

In 1955 or earlier, human remains representing, at minimum, one individual were removed by Y. F. Aguirre from an unrecorded site, designated AZ AA:7:—Red Rock, located on the collector's property in the Red Rock vicinity, in Pinal County, AZ. The human remains were reportedly exposed while plowing. This collection was donated to ASM in 1955. No known individuals were identified. The one associated funerary object is a ceramic jar. The human remains likely date to the Hohokam period, A.D. 500–1450, based on ceramic analysis.

In 2010, human remains representing, at a minimum, one individual were removed from site AZ AA:7:27(ASM), located on Arizona State Trust land near the Picacho Mountains in Pinal County, AZ. The human remains were removed during a survey conducted by Archeological Consulting Services, under the direction of Robert Stokes. The human remains were received by ASM in 2010. No known individuals were identified. No associated funerary objects are present. The site contains an extensive artifact scatter including ceramics, chipped stone, and ground stone as well as the foundation of a structure. Based on ceramics observed at the site, this site was occupied from A.D. 450–1450, which encompasses the Hohokam cultural sequence.

In 1983, human remains representing, at minimum, one individual, were removed from AZ AA:7:46(ASM), located on the lower bajada of the Picacho Mountains in Pinal County, AZ. Several cultural items were removed from this site by John Madsen of ASM, following reports of unauthorized excavations on Arizona State Trust lands. These collections were received by ASM in 1991. In 2010, museum staff discovered the human remains in the site survey collections. No known individuals were identified. No associated funerary objects are present. The site is described as a large habitation site, with a few sherds and other artifacts eroding out of small washes across it. Based on the ceramics observed there, this site was occupied between A.D. 450–1450, which encompasses the Hohokam cultural sequence.

At an unknown date during or prior to 1953, human remains representing, at minimum, two individuals were removed by an unknown individual from an unrecorded site, AZ AA:8:—Florence Highway, located along the Florence Highway between Tucson and Florence in Pinal County, AZ. The human remains were reportedly exposed by erosion. The landowner is unknown. This collection was donated by Cal Hackworth to ASM in 1953. No known individuals were identified. The one associated funerary object is a ceramic pitcher. The human remains likely date to the Hohokam period, A.D. 500–1450, based on ceramic analysis.

In 1985, human remains representing, at minimum, one individual, were removed from site AZ AA:8:123(ASM), located on private land near the Tortolita Mountains in the northern Tucson Basin, in Pinal County, AZ. The human remains were excavated during a University of Arizona field school, under the direction of Paul Fish. The human remains were received by ASM in 1995. No known individuals were identified. The two associated funerary objects are two animal bones. The site is described as a large village with two low rectangular mounds, as well as fifteen low mounds, characterized by densely scattered sherds, chipped stone, and ground stone. The human remains likely date to the Hohokam cultural sequence, A.D. 450–1450, based on material cultural analysis.

In 1985–1986, human remains representing, at minimum, four individuals were removed from the site AZ AA:8:20(ASM), located in the vicinity of Coronado Wash, in Pima County, AZ. The site was excavated as part of the Suffering Wash Data Recovery Project by Archeological

Consulting Services, under the direction of Barbara Macnider. This collection was received by ASM in 1991. No known individuals were identified. The 913 associated funerary objects are: two fragments of animal bone, 752 ceramic sherds, one lot of charcoal, 124 fragments of chipped stone, 12 flotation samples (six heavy fractions and six light fractions), one ground stone, eight pollen samples, one radiocarbon sample, 11 pieces of schist, and one shell. Site AZ AA:8:20(ASM) is described as a large, multi-component, Hohokam village site with numerous trash mounds and pit houses. The site likely dates to the Hohokam Colonial to Classic periods, A.D. 850–1300, based on site dates.

In 1985–1986, human remains representing, at minimum, eight individuals, were removed from site AZ AA:8:21(ASM), located near Suffering Wash in the Black Mountains in Pinal County, AZ. The site was excavated as part of the Suffering Wash Data Recovery Project by Archeological Consulting Services, under the direction of Kurt Dongoske. This collection was received by ASM in 1991. No known individuals were identified. The 419 associated funerary objects are: Five fragments of animal bone, one ceramic jar, 334 ceramic sherds, one perforated ceramic sherd artifact, 76 fragments of chipped stone, one pollen sample, and one stone. This site is described as a large, multi-component Hohokam village site containing a ball court, numerous trash mounds, many pit house structures, and some surface architecture. The site likely dates to the Hohokam Colonial—Classic periods, A.D. 850–1300, based on architecture and ceramic typology.

In 1994, human remains representing, at minimum, 15 individuals were removed from site AZ AA:8:27(ASM), located in the bajada west of the Tortolita Mountains in Pima County, AZ. The site was excavated during an ASM Intra-site Mapping Project directed by Paul Fish and Gavin Archer. Collections from this site were received by ASM in 1994. The human remains were not recognized at the time they were collected. In 2010, museum staff discovered the human remains in the site survey collections. No known individuals were identified. No associated funerary objects are present. AZ AA:8:27(ASM) is described as a small habitation site with an adobe compound, house mound, check dams, roasting pits, and trash areas. The site likely dates to the Hohokam Sedentary to Classic periods, A.D. 1000–1300, based on material culture analysis.

In 1966, human remains representing at a minimum, one individual, were removed site AZ BB:11:2(ASM), located near Redington in Pima County, AZ. Collections from this site were removed during the Lower San Pedro Survey conducted by the Center for Desert Archaeology. These collections were received by ASM in 1966. The human remains were not recognized at the time they were collected. In 2010, museum staff discovered the human remains in the site survey collections. No accession number was assigned. No known individuals were identified. No associated funerary objects are present. Features at this site include the human remains of several adobe walled, cobble reinforced room blocks, as well as an isolated one room structure, a number of rock piles, and a roasting pit. Based the analysis of material culture observed at this site, this site likely dates to the Late Classic period of the Hohokam cultural sequence, A.D. 1300–1450.

In 1969–1970, human remains representing, at minimum, 54 individuals were removed site, AZ BB:11:20(ASM), located near Redington in Pima County, AZ. The site was excavated during a highway salvage project by ASM, under the direction of Laurens C. Hammack and Hayward Franklin. Project collections were received by ASM in 1972. No known individuals were identified. The 94 associated funerary objects are: 10 fragments of animal bone, six lots of beads, 10 ceramic bowls, one ceramic bowl fragment, two ceramic disks, three ceramic jars, one ceramic ladle, one ceramic pitcher, 12 ceramic sherds, one ceramic spindle whorl, one fragment of chipped stone, two corn cobs, five minerals, one polishing stone, one pollen sample, three lots of shell beads, two shell bracelets, one stone awl, one stone axe, 17 lots of stone beads, two stone knives, seven stone projectile points, two stone scrapers, one turquoise pendant, and one turquoise tessera. This multi-component site consisted of 22 surface boulder-adobe rooms, 16 pit houses, four plazas, 29 funerary features, and numerous extramural features. The site likely dates to the Hohokam Sedentary—Classic periods, A.D. 775–1450, based on analysis of material culture observed at this site.

In 1970, human remains representing, at minimum, one individual were removed from site AZ BB:11:24(ASM), located on private land near Sosa Wash in Cochise County, AZ. The burial was exposed by erosion in a wash and was excavated by two graduate students from the University of Arizona. In 1971, the human remains were received by ASM. No known individuals were identified. No associated funerary objects are present. The site is recorded as a single burial, possibly associated with a nearby Hohokam site AZ BB:11:18(ASM). On this basis, the site likely dates to the Hohokam Pre-Classic to Classic period, A.D. 750–1300.

In 1965, human remains representing, at minimum, two individuals were removed by an unknown individual from site, AZ BB:2:10(ASM), located on Arizona State Trust land east of the San Pedro River in Pinal County, AZ. This collection was donated by Alice Carpenter to ASM in 1965. No known individuals were identified. The 11 associated funerary objects are: One bone artifact, one ceramic jar, three chipped stone scrapers, one crystal, four shell tinklers, and one stone projectile point.

In 1976, human remains representing, at minimum, two individuals were removed from the same site, AZ BB:2:10(ASM), during a field school conducted by Arizona College of Technology, under the direction of Bruce Masse. Collections from this project were transferred to ASM in 1983. No known individuals were identified. The 32 associated funerary objects present are: Two ceramic bowls, one ceramic jar, 24 ceramic sherds, one lot of charcoal, and four fragments of chipped stone.

At an unknown date, human remains representing, at a minimum, one individual were removed from the same site, AZ BB:2:10(ASM), during a survey project. The survey collections were transferred to ASM. The human remains were not recognized at the time they were collected. In 2010, museum staff discovered the human remains in the site survey collections. No known individuals were identified. No associated funerary objects are present. Site AZ BB:2:10(ASM) is described as having two compounds, two platform mounds, a trash mound, and a linear rock alignment. The site likely dates to the Hohokam Classic period, A.D. 1200–1450, based on architecture and ceramic typology. Based on analysis of the material culture observed at this site, this site is culturally affiliated with Salado and Hohokam groups.

In 1964 or 1991, human remains representing, at a minimum, one individual were removed from AZ BB:2:12(ASM), located in the San Pedro Valley in Pima County, AZ. These human remains were removed either during a survey conducted either by ASM in 1964, or by the Center for Desert Archeology in 1991. Collections from these surveys were transferred to ASM on unknown dates. The human remains

were not recognized at the time they were collected. In 2010, museum staff discovered the human remains in the site survey collections. No known individuals were identified. No associated funerary objects are present. This site is described as a dense artifact scatter containing sherds, chipped stone, and ground stone. Based on ceramics observed at this site, this site likely dates to the Hohokam Classic period, A.D. 1150–1400, and is culturally affiliated with Hohokam and Salado cultural groups.

In 1977–1979, human remains representing, at minimum, 28 individuals were removed from site AZ BB:2:19(ASM), located on private land on the east bank of the San Pedro River in Pinal County, AZ. The site was excavated during the Ash Terrace Field School conducted by the Arizona College of Technology, under the direction of Michael Bartlett. In 1995, the collection was received by ASM. No known individuals were identified. The 38 associated funerary objects are: Five fragments and one lot of animal bone, one ceramic bowl, one ceramic pitcher, 29 ceramic sherds, and one stone. This site is described as located within the site recorded as AZ BB:2:1(ASM). This site consists of at least four two-room, noncontiguous structures surrounding a possible plaza area. The site likely dates to A.D. 1250–1450, based on ceramic typology. Based on analysis of material culture observed at the site, this site can be affiliated with the Salado and Hohokam cultural groups.

In 1975–1977, human remains representing, at minimum, 127 individuals were removed from site AZ BB:2:2(ASM), located north of Mammoth on the San Pedro River on private land in Pinal County, AZ. The site was excavated by the Arizona College of Technology Field School, under the direction of Dudley Meade and Bruce Masse. Collections from this site excavated by Bruce Masse were received by ASM at an unknown date (possibly circa 1978). The collections excavated by Dudley Meade were received by ASM in 1998. No known individuals were identified. The 7,461 associated funerary objects are: 913 fragments of animal bone, one bead, six bone artifacts, four bone awl fragments, two ceramic bowls, two ceramic disks, 11 ceramic figurine fragments, two ceramic scoops, 5,467 ceramic sherds, seven ceramic sherd artifacts, 21 ceramic vessels, nine lots of charcoal, 641 fragments of chipped stone, seven chipped stone cores, one chipped stone scraper, two chipped stone tools, seven cobbles, eight daub fragments, eight ground stone fragments, one hammer stone, five manos, one metate fragment, eight minerals, one mortar fragment, two pebbles, two quartz crystals, 36 shell fragments, three shell beads, 13 shell bracelet fragments, one shell pendant, 226 stones, three stone artifacts, five lots of stone beads, two stone knives, three stone palette fragments, seven stone projectile points, four unidentified objects, and 19 wood fragments. This site consists of a moderately dense, highly diverse artifact scatter with assorted above-ground features, including small mounds and two ball courts. Rock room outlines are also visible. Based on ceramic analysis, this site likely dates to the Hohokam Pioneer—Sedentary periods, A.D. 450–1100.

In 1977–1979, human remains representing, at a minimum, six individuals were removed from site AZ BB:2:7(ASM), located on private land north of Mammoth in Pinal County, AZ. The site was excavated by the Arizona College of Technology Ash Terrace Field School, under the direction of Michael Bartlett. The human remains were received by ASM in 1995. No known individuals were identified. No associated funerary objects are present. This site is described as a Salado compound village. The remains likely date to A.D. 1300–1450, based on ceramic analysis.

In 1964, human remains representing, at minimum, one individual were removed by an unknown individual from site AZ BB:5:7(ASM), located on Arizona State Trust land near the Big Wash-Canada del Oro-Santa Cruz Wash drainage in Pima County, AZ. Collections from this site were donated to ASM by Alice Carpenterin in 1964. No known individuals were identified. The 10 associated funerary objects are: One bone artifact, eight ceramic sherds, and one shell bracelet fragment. The site likely dates to the Hohokam Sedentary period, A.D. 950–1150, based on ceramic analysis.

At an unknown date prior to 2010, human remains representing, at a minimum, three individuals were removed from AZ BB:5:8(ASM), located on private land west of Canada del Oro Wash in Pinal County, AZ. These human remains were removed over the course of a site survey by a representative of ASM, and were subsequently brought to ASM. The human remains were not recognized at the time they were collected. In 2010, museum staff discovered the human remains in the site survey collections. No known individuals were identified. No associated funerary objects are present. This site is described as a Hohokam village site with rectangular rock alignments, one large rock ring, trash mounds, a sherd scatter, and other associated artifact scatters. The human remains of two adobe structures are in the wash below the site. Based on ceramics identified at this site, this site likely dates to the Hohokam cultural sequence A.D. 450–1450.

In 1971–1973, human remains representing, at minimum, five individuals were removed from site AZ BB:6:20(ASM), located on private land in the lower San Pedro Valley in Pinal County, AZ. The human remains were collected during survey and excavations carried out by Dudley Meade, through Central Arizona College. Collections from this site were received by ASM in 1997. These human remains were not recognized at the time they were collected. In 2016, museum staff discovered fragmentary human remains in the faunal collections. No known individuals were identified. No associated funerary objects are present. This site consists of a prehistoric Salado surface scatter as well as ten masonry-adobe walled, single and double unit rooms. Based on artifacts observed at this site, this site likely dates to A.D. 1150–1300.

In 2000, human remains representing, at minimum, 37 individuals were removed from site AZ BB:9:104(ASM), located on private land on the southeast pediment of the Tortolita Mountains in Pima County, AZ, during excavations conducted by SWCA Environmental Consultants. Over the course of excavation at this site, numerous burials were encountered, and were subsequently repatriated in accordance with Arizona state burial laws. The human remains listed here were not recognized at the time they were collected. These remains were received by ASM in 2006, along with all the collections from this site. In 2013, museum staff discovered the human remains in the site faunal collections. No known individuals were identified. No associated funerary objects are present. This large Hohokam site contains a ball court and at least 28 trash mounds clustered in 5 mound groups. This site likely dates to the Hohokam Colonial—Classic periods, A.D. 850–1300, based on the material culture observed there.

In 1990, human remains representing, at minimum, five individuals were removed from site AZ BB:9:143(ASM), located on private land west of Sabino Canyon Road in Pima County, AZ, by the Institute for American Research, under the direction of Allen Dart. Collections from this site were received by ASM in 1990. The human remains were not recognized at the time they

were collected. In 2013, museum staff discovered the human remains in the site faunal collections. No known individuals were identified. No associated funerary objects are present. This site consists of a ceramic and lithic scatter as well as stone alignments forming check dams. This site likely dates to the Hohokam Sedentary period, A.D. 950–1150, based on the material culture observed there.

In 2000, human remains representing, at minimum, one individual were removed from AZ BB:9:148(ASM), located on private land in the pediment zone at the base of the Tortolita Mountains in Pima County, AZ. Excavations were conducted by SWCA Environmental Consultants. Collections from this site were received by ASM in 2000. These human remains were not recognized at the time they were collected. In 2013, museum staff discovered the human remains in the site faunal collections. No known individuals were identified. No associated funerary objects are present. This site consists of 17 loci and 34 features, including roasting pits, boulder-rimmed circles, bedrock mortars, petroglyphs, check dams, trails, and artifacts scatters. The site is interpreted as a seasonal or temporary habitation, and a resource procurement and processing locale. Three archeomagnetic dates fall mostly within the Sedentary period. This site dates to the Hohokam Sedentary—early Classic periods, A.D. 1000–1200, based on the archeomagnetic data, as well as the material culture observed there.

In 1995, human remains representing, at minimum, one individual were removed from AZ BB:9:179(ASM), located on private land on the southeast pediment of the Tortolita Mountains in Pima County, AZ, during test excavations by SWCA Environmental Consultants. Collections from this site were received by ASM in 2006. The human remains were not recognized at the time they were collected. In 2013, museum staff discovered the human remains in the site faunal collections. No known individuals were identified. No associated funerary objects are present. This site contained a sherd and lithic scatter, and four features were identified. They include one pit house, two thermal features, and a grinding slick and associated cupule on an exposed piece of granite. This site was likely occupied during the Colonial and Sedentary periods of the Hohokam cultural sequence, A.D. 850–1050, based on the material culture observed there.

In 1994–2000, human remains representing, at minimum, three individuals were removed from the Los Venados site AZ BB:9:186(ASM), located on private land on the southeast pediment of the Tortolita Mountains in Pima County, AZ, during excavations by SWCA Environmental Consultants. Collections from this site were received by ASM in 2006. The human remains were not recognized at the time they were collected. In 2013, museum staff discovered the human remains in the site faunal collections. No known individuals were identified. No associated funerary objects are present. This site appears to be a heavy-duty resource procurement and processing area. Features include roasting pits, bedrock mortars and slicks, and a heavy artifact scatter. This site is widely dispersed, with pockets of artifacts and features that are usually associated with bedrock outcrops. This site was likely used from A.D. 450–1450, which encompasses the Hohokam cultural sequence, based on the material culture observed there.

In 1994, human remains representing, at minimum, two individuals were removed from site AZ BB:9:280(ASM), located on private land in the upper foothills of the Santa Catalina Mountains in Pima County, AZ, during excavations by the Old Pueblo Archeology Center, under the direction of Allen Dart. Collections from this site were received by ASM in 1998. All the human remains identified at the time of the excavations were repatriated according to Arizona state burial laws prior to ASM's receipt of the collections. These human remains were not recognized at the time they were collected. In 2013, museum staff discovered these human remains in the site faunal collections. No known individuals were identified. No associated funerary objects are present. The site was a large artifact scatter associated with bedrock/boulder mortars and slicks, one pictograph in a rockshelter, and two buried outdoor hearths. The site included three discrete areas of archeological deposits and surface archeological features. Material culture from this site indicates use during the Middle and Late Archaic periods, as well as by later, Hohokam and Protohistoric Native American groups, and early 20th century inhabitants. The Hohokam occupation of this site was concentrated in the central and eastern portions of the site, and likely dates to A.D. 900–1450, the Colonial—Classic periods. The only buried archeological features were two outdoor hearths, one of which was radiocarbon dated between A.D. 1425 and 1650. The human remains from this site were recovered in the eastern site locus, and are likely associated with the Hohokam occupation of this site.

In 1995, human remains representing, at minimum, one individual were removed from site AZ BB:9:286(ASM), located on private land in the floodplain at the base of the Santa Catalina Mountains in the Tucson Basin in Pima County, AZ, during excavations by SWCA Environmental Consultants. This collection was received by ASM in 1996. The human remains were not recognized at the time they were collected. In 2013, museum staff discovered the human remains in the site faunal collections. No known individuals were identified. No associated funerary objects are present. This site consists of a light to moderate density sherd and lithic scatter concentrated in four separate loci. Ceramics observed at this site suggest it was occupied during the Sedentary and Classic periods of the Hohokam cultural sequence, A.D. 950–1450.

In 1996, human remains representing, at minimum, one individual were removed from site AZ BB:9:304(ASM), located on private land south of Tanque Verde Creek in the eastern Tucson Basin in Pima County, AZ, during excavations by the Old Pueblo Archaeology Center. This collection was received by ASM in 1999. The human remains were not recognized at the time they were collected. In 2013, museum staff discovered the human remains in the site faunal collections. No known individuals were identified. No associated funerary objects are present. This site is described as a small Rincon phase Hohokam farmstead with 11 pit houses, 13 outdoor pits, and two trash middens. This site was occupied during the Sedentary period of the Hohokam cultural sequence, A.D. 950–1150, based on the material culture observed there.

In 1990, human remains representing, at minimum, three individuals were removed from AZ BB:9:44(ASM), located on private land on the east bank of Ventana Canyon Wash in Pima County, AZ, by the Institute for American Research. This collection was received by ASM in 1990. The human remains were not recognized at the time they were collected. In 2013, museum staff discovered the human remains in the site faunal collections. No known individuals were identified. No associated funerary objects are present. This site consists of a surface scatter of sherds and lithics. There is no evidence of houses, hearths, or other features. This site was occupied during the Sedentary and Classic periods of the Hohokam cultural sequence, A.D. 1000–1300, based on the material culture observed there.

In 1993, human remains representing, at minimum, three individuals were removed from site AZ BB:9:50(ASM), located on private land in the eastern Tucson Basin in the foothills of the Santa Catalina Mountains in Pima County, AZ, during excavations conducted by SWCA Environmental Consultants. These collections were received by ASM in 1995. The human remains were not recognized at the time they were collected. In 2013, museum staff discovered the human remains in the site faunal collections. No known individuals were identified. No associated funerary objects are present. This site has Hohokam and historic O'odham components. The southern and western portions are Hohokam, with an Ak-Chin farming area in the west and a large village site in the south. The village contained more than 40 oval and rectangular structures, a large midden and a large compound. The northwest portion of the site is O'odham, and contains four check dams. This site was likely primarily occupied between A.D. 1100–1450, in the late Sedentary and Classic periods of the Hohokam cultural sequence, based on the material culture observed there.

In 1996, human remains representing, at minimum, six individuals were removed from site AZ BB:9:68(ASM), located on private and Arizona State Trust land near the Santa Catalina Mountains in Pima County, AZ, during excavations conducted by Aztlan Archeology. This collection was received by ASM in 2008. The human remains were not recognized at the time they were collected. In 2013, museum staff discovered the human remains in the site faunal collections. No known individuals were identified. No associated funerary objects are present. The site is a moderately sized village with pit houses, trash mounds, roasting pits, and high density artifact scatters. This site likely dates to A.D. 750–1450, which includes the Colonial, Sedentary, and Classic periods of the Hohokam cultural sequence, based on the material culture observed there.

In 1998, human remains representing, at minimum, two individuals were removed from site AZ BB:9:87(ASM), located on private land in Oro Valley near Honey Bee Canyon in Pima County, AZ, during excavations conducted by SWCA Environmental Consultants. This collection was received by ASM in 1996. The human remains were not recognized at the time they were collected. In 2013, museum staff discovered the human remains in the site faunal collections. No known individuals were identified. No associated funerary objects are present. This site consists of a widespread, low density scatter of sherds and lithics. Although buried structures such as pithouses might be present, the low density and nature of the artifact assemblage suggest an area sporadically utilized for resource gathering or processing. Its proximity to AZ BB:9:88(ASM) suggests further that it was a special purpose locality associated with the village. This site likely dates to A.D. 450–1450 which encompasses the Hohokam cultural sequence, based on the material culture observed there.

In 1970, human remains representing, at minimum, two individuals were removed from private land at site AZ CC:10:1(ASM), located in the San Simon Valley in Cochise County, AZ. The burials were discovered during construction of a gas pumping station by C.H. Leavell and Company. Excavation was conducted by ASM, under the direction of Walter Birkby. The human remains were received by ASM in 1970. No known individuals were identified. No associated funerary objects are present. The site was a small habitation with a one room stone dwelling, trash mounds and an artifact scatter. Material culture suggests affinities with the San Simon Branch of the Mogollon as well as Hohokam. The site likely dates to A.D. 1100–1200, based on ceramic analysis.

In 1944, human remains representing, at minimum, one individual were removed from site AZ CC:13:3(ASM), located in Wilcox Playa in Cochise County, AZ. The exact circumstances in which these human remains were removed is unknown. The site card notes that the human remains were collected by ''EBS'' from a borrow pit in 1944. The initials may refer to Edwin B. Sayles, who carried out field work in Arizona from the 1920s through the 1950s. The collection was received by ASM sometime after 1944. In 2010, museum staff discovered the human remains in the site survey collections. No known individuals were identified. No associated funerary objects are present. This site is described as an archaic camp site, based on material culture, and likely dates between 4000 B.C. and A.D.100.

On an unknown date in the late 1960s or early 1970s, human remains representing, at minimum, one individual were removed by Dale Jones from an unrecorded site designated AZ CC:2:—Safford Airport, located on private land near the Safford Airport in Graham County, AZ. This collection was donated to ASM in 2015. No known individuals were identified. The three associated funerary objects are one lot of animal bone fragments, one ceramic jar, and one lot of charcoal. Based on ceramic typology, this collection likely dates to A.D. 1000–1400, and is affiliated with the Mogollon culture.

In 1981, human remains representing, at minimum, nine individuals were removed from site AZ CC:3:46(ASM) located on private land near Clifton in Graham County, AZ. Excavations were conducted with the permission of the landowners by Chester Shaw of ASM. The collections were received by ASM in 1983. No known individuals were identified. The nine associated funerary objects are: One bone awl, one ceramic sherd, two fragments of chipped stone, two pollen samples, two shell pendants, and one stone biface. AZ CC:3:46(ASM) is a village site with multiple pithouse depressions and several above-ground, multi-room, masonry structures. The site is dated to the Three Circle and Mimbres phases of the Mogollon cultural sequence, about A.D. 750–1150, based on ceramic analysis.

In 1972, human remains representing, at minimum, one individual were removed from site AZ CC:5:5(ASM) located on the bank of Grant Creek on Arizona State property in Graham County, AZ. Following observed disturbance of the site, ASM was invited to record the area. Collections were removed from the site by ASM personnel during their survey. These collections were received by ASM during or after 1972. No known individuals were identified. The one associated funerary objects is an animal bone fragment. The site is described as a large village containing above-ground, rectangular structures with cobble foundations and, possibly, puddled adobe walls. The site likely dates to A.D. 1150–1450, based on ceramic typology, and is likely associated with Mogollon, Hohokam, and Salado cultural groups.

At an unknown date during or prior to 1927, human remains representing, at minimum, one individual were removed by Walter Gilpin from an unrecorded site designated AZ CC:8:—Duncan vicinity, at an unknown location on private land near Duncan in Greenlee County, AZ. The human remains were donated to ASM in 1927. No known individuals were identified. The one associated funerary object is a ceramic bowl. The human remains likely date to A.D. 1000–1150, during the Mimbres phase of the Mimbres Mogollon cultural sequence, based on ceramic analysis.

On an unknown date prior to 2008, human remains representing, at a minimum, two individuals were removed by un unknown individual from an unrecorded site, designated AZ

Cochise Stronghold, possibly located in the mountains near Cochise Stronghold or around Bisbee in Cochise County, AZ. This collection was donated to ASM in 2008. No known individuals identified. The two associated funerary objects are ceramic jars. Based on ceramic analysis, these remains likely date to A.D. 1100–1450, and are likely associated with Salado and/or Hohokam cultural groups.

At an unknown date, human remains representing, at minimum, two individuals were removed from an unrecorded site, designated AZ DD:—Sasabe, located in the vicinity of Sasabe in Pima County, AZ. The human remains were possibly collected by Dr. Paul Fish, an archeologist affiliated with ASM. No further information about the context of the discovery is available. The human remains and associated funerary objects were brought to the museum at an unknown date. No known individuals were identified. The one associated funerary object is a ceramic sherd. Based on ceramic typology, these human remains date to A.D. 450–1450, which encompasses the Hohokam cultural sequence.

Between 1940 and 1960 human remains representing, at minimum, one individual, were removed from an unrecorded site, designated AZ DD:2:—Las Delicias Ranch, located between Three Points and Sasabe in Pima County, AZ, by Elizabeth Hibbs, the owner of the ranch. This collection was received by ASM in 1983. No known individuals were identified. The four associated funerary objects are two ceramic bowls and two ceramic jars. Based on ceramic typology, these human remains date to A.D. 1200–1700, which includes both the Classic Hohokam and Upper Piman cultural sequences.

At an unknown date during or prior to 1953, human remains representing, at minimum, one individual, were removed from an unrecorded site, designated AZ DD:4:—Nogales Highway, located near Nogales Highway in the Amado area in Pima County, AZ. The burial was exposed by erosion in a wash, and was collected by an unknown individual. The human remains were donated by Max Soto to the Arizona State Museum in 1953. No known individuals were identified. The three associated funerary objects are one ceramic jar and two ceramic sherds. The collection likely dates to the ceramic period, A.D. 450–1450, based on the ceramic typology.

In 1952 human remains representing, at minimum, one individual were removed from AZ DD:4:10(ASM), located on private land in Pima County, AZ, by members of an ASM survey crew. Collections from this site were received by ASM in 1952 or later. The human remains were not recognized at the time they were collected. In 2010, museum staff discovered the human remains in the site survey collections. No known individuals were identified. No associated funerary objects are present. This site is described as consisting of an artifact scatter containing ceramics, lithics, and shell. Based on ceramic typology, this site likely date to A.D. 850–1150, which contains the latter half of the Colonial Period and the Sedentary Period of the Hohokam cultural sequence.

In 1953, human remains representing, at minimum, eight individuals were removed from site AZ DD:4:38(ASM), located in the Sierrita Mountains near Tinaja Peak in Pima County, AZ, by archeologists from the University of Arizona, under the direction of Dr. Bertram Kraus. These human remains were received by ASM in 1953. No known individuals were identified. No associated funerary objects are present. Based on material culture present at the site, these human remains likely date to A.D. 1300–1800, which includes both Hohokam and Upper Piman cultural groups.

In 1952, human remains representing, at minimum, one individual were removed from AZ DD:4:56(ASM), located on private land south of Green Valley in Pima County, AZ, during an archeological survey possibly conducted by ASM. Collections from this site were received by ASM prior to 2010. The human remains were not recognized at the time they were collected. In 2010, museum staff discovered the human remains in the site survey collections. No known individuals were identified. No associated funerary objects are present. This site is described as an artifact scatter containing plainware pottery and ground stone. Features at this site include pithouses, as well as a cremation locus. This site likely dates to A.D. 850–950, during the Colonial Period of the Hohokam cultural sequence, based on the material culture observed there.

In 1991, human remains representing, at minimum, one individual were removed from site AZ DD:4:146(ASM), located near Escondido Wash in Pima County, AZ, by an SWCA survey crew, under the direction of Tom Euler. Collections from this site were received by ASM in 1991. The human remains were not recognized at the time they were collected. In 2010, museum staff discovered the human remains in the site survey collections. No known individuals were identified. No associated funerary objects are present. This site is described as a sherd and lithic artifact scatter. Based on ceramic typology, this site likely dates to A.D. 850–950, during the Colonial Period of the Hohokam cultural sequence.

In 1969, human remains representing, at minimum, two individuals were removed from an unrecorded site, designated AZ DD:6—Rancho de la Osa, located in the Altar Valley area in Pima County, AZ. The human remains and associated funerary objects were collected by David Letarte. Mr. Letarte donated the collection to ASM in 1969. No known individuals were identified. The 11 associated funerary objects are: one ceramic jar, one ceramic jar fragment, two ceramic sherds, one fragment of chipped stone, one painted pebble, four shell bracelet fragments, and one stone projectile point. The human remains date to the period A.D. 750–1150, and are affiliated with the Trincheras cultural group, based on ceramic analysis.

In 1939, human remains representing, at minimum, one individual were removed from an unrecorded site, designated AZ DD:7:—Arivaca Road, located near Amado in Pima County, AZ. The human remains were collected by Lyman Marden of the U.S. Geological Survey. The human remains and associated funerary objects were brought to ASM in 1939. No known individuals were identified. The two associated funerary objects are one ceramic jar and one ceramic bowl. The human remains date to the Classic Period of the Hohokam cultural sequence, A.D. 1250–1400, based on ceramic analysis.

At an unknown date during or prior to 1967, human remains representing, at minimum, five individuals, were removed from an unrecorded site, designated AZ DD:8:—Guest Site, located in a wash near the Santa Cruz River in Santa Cruz County, AZ. The human remains and associated funerary were collected by Marguerite Guest. She donated the collection to ASM in 1967. No known individuals were identified. The 10 associated funerary objects are: one animal bone awl, two ceramic bowls, four ceramic jars, and three shell beads. Based on ceramic analysis, this site likely dates to the Sedentary Period of the Hohokam cultural sequence, A.D. 950–1150.

In 1932 or 1933, human remains representing, at minimum, two individuals were removed from an unrecorded site, designated AZ DD:8:—Las Guijas vicinity, located in the Altar Valley in Pima County, AZ. The human remains and associated funerary objects were collected by the husband of Mary Gipe, who worked at various mines in

the area. Mrs. Gipe donated the collection to ASM in 1965. No known individuals were identified. The one associated funerary object is a ceramic jar. Based on ceramic analysis, these human remains date to A.D. 450–1450, which encompasses the Hohokam cultural sequence.

In 1965, human remains representing, at minimum, 38 individuals were removed from site AZ DD:8:12(ASM), located on private land in Santa Cruz County, AZ. The human remains were collected prior to the construction of Interstate Highway 19, as part of an archeological salvage excavation carried out by the ASM Highway Salvage Project, under the direction of James V. Sciscenti. This collection was received by ASM in 1965. No known individuals were identified. The 197 associated funerary objects are: one bone awl, 32 ceramic bowls, one ceramic bowl fragment, eight ceramic jars, four ceramic pitchers, 24 ceramic sherds, nine ceramic spindle whorls, one ceramic shoe pot, one metal fragment, seven lots of shell and stone beads, four lots of shell beads, 41 shell bracelets, one shell bracelet fragment, 36 shell pendants, 10 shell rings, nine shell ring fragments, one lot of stone beads, one stone knife, one stone scraper, and five turquoise pendants.

In an unknown date in the late 1970s, human remains representing, at a minimum, two individuals were removed from the same site, AZ DD:8:12(ASM), by an unknown individual. The circumstances of discovery of these human remains are unknown. They were received by ASM in 1977 or 1979. No known individuals were identified. No associated funerary objects are present with these individuals. Site AZ DD:8:12(ASM) is a large, multi-component village site with Colonial, Sedentary, and Classic period Hohokam components (A.D. 850–1550), followed by a Protohistoric period Upper Pima component (A.D. 1550–ca. 1700). These dates and cultural affiliations are based on the material culture observed at this site. With the exception of one burial, which may date from the Classic Period of the Hohokam cultural sequence, A.D. 1150–1550, all the burials excavated by the 1965 ASM salvage project are attributed to the Upper Pima component, A.D. 1550–ca. 1700. The dates associated with the human remains removed in the late 1970s is unclear, but based on the material culture present at the site, they likely date to between A.D. 850–ca. 1700.

In 1976, human remains representing, at minimum, 39 individuals were removed site AZ DD:8:122(ASM), located on private land in the Santa Cruz River valley in Santa Cruz County, AZ. The site was excavated by ASM over the course of the Carmen-Ortero Project, under the direction of David E. Doyel, to mitigate the effects of the expansion of Interstate Highway 19, between Tucson and Nogales. All recovered human remains and associated funerary objects were received by the Arizona State Museum in 1976. No known individuals were identified. The 71 associated funerary objects are: two lots of beads, two bone awl fragments, one bone bracelet, nine ceramic bowls, one ceramic bowl fragment, 21 ceramic jars, two ceramic jar fragments, two ceramic pitchers, nine ceramic sherds, two ceramic sherd artifacts, two fragments of chipped stone, five shell fragments, 11 lots of shell beads, one shell bracelet fragment, and one stone biface. This pit house site was destroyed by the construction of the frontage road of I–19. No structures were visible on the surface; however, an extensive sherd and lithic scatter was present. Based on ceramic analysis, this site was occupied during the Colonial and Sedentary Periods of the Hohokam cultural sequence, A.D. 850–1150.

In 1976, human remains representing, at minimum, five individuals were removed site, AZ DD:8:128 (ASM), located on private land in the Santa Cruz River valley in Santa Cruz County, AZ. The site was excavated by ASM over the course of the Carmen-Ortero Project, under the direction of Bruce Masse, to mitigate the effects of the expansion of Interstate Highway 19, between Tucson and Nogales. This collection was received by ASM in 1976. No known individuals were identified. The 35 associated funerary objects are: One bone bead, one ceramic bowl, one ceramic bowl fragment, one ceramic disk, four ceramic jars, one ceramic plate, 14 ceramic sherds, seven fragments of chipped stone, one lot of shell beads, one shell bracelet, two lots of shell fragments, and one stone axe. This is a multi-component site. Investigations at the site revealed evidence of Hohokam occupation during the Colonial and Sedentary Periods of the Hohokam cultural sequence (A.D. 850–1150) and later, by Upper Piman groups during the Protohistoric period (A.D. 1450–1700). Based on ceramic evidence, these human remains and associated funerary objects are associated with the A.D. 850–1150 occupation, during the Colonial and Sedentary periods of the Hohokam cultural sequence. On an unknown date prior to 2010, human remains representing, at minimum, one individual were removed from site AZ DD:8:2(ASM), located on private land in Santa Cruz County, AZ, during an ASM site survey. Collections from this site were received by ASM at an unknown date. The human remains were not recognized at the time they were collected. In 2010, these remains were identified in site survey boxes by ASM staff. No known individuals were identified. No associated funerary objects are present. This site is part of, or represents a component of, site AZ DD:8:12(ASM), a large multi-component village site with Colonial, Sedentary, and Classic period Hohokam components (A.D. 850–1550), followed by a Protohistoric period Upper Pima component (A.D. 1550- ca. 1700). These dates and cultural affiliations are based on the material culture observed at this site. The dates associated with these human remains is unclear, but based on the material culture present at site AZ DD:8:12(ASM), the human remains likely date to between A.D. 850- ca. 1700.

In 1971, human remains representing, at minimum, two individuals were removed from site AZ DD:8:74(ASM), located on private land near Tubac in Santa Cruz County, AZ, by a Alan Lester. These human remains were received by ASM in 1972. No individuals were identified. No associated funerary objects are present.

In 1976, human remains representing, at a minimum, one individual were removed from the same site, AZ DD:8:74(ASM), by Lance Haydon and Jim Thomas. These human remains were received by ASM in 1976. No individuals were identified. No associated funerary objects are present. According to site survey records, AZ DD:8:74(ASM) is described as an artifact scatter composed primarily of sherds and stone fragments. Several low trash mounds were observed, along with six possible house depressions. Based on an analysis of the artifacts reported at this site, these human remains likely date to the Sedentary or Classic Periods of the Hohokam cultural sequence, A.D. 950–1300.

Around 1929, human remains representing, at minimum, three individuals were removed from an unrecorded site, designated AZ EE:—Sonoita Creek, located near Patagonia in Pima County, AZ. These human remains and associated funerary objects were collected by the Arizona State Highway Department, and were received by ASM sometime after 1929. No known individuals were identified. The one associated funerary object is a ceramic jar. Based on ceramic analysis, these human remains and associated funerary

objects date to A.D. 450–1450, which encompasses the Hohokam cultural sequence.

In 1980, human remains representing, at minimum, one individual were removed from an unrecorded site, designated AZ EE:1:—Continental vicinity, located on private land in Pima County, AZ. The burial was discovered by Cheryl Walden during excavation of a house foundation. These human remains and associated funerary objects were received by ASM in 1988. No known individuals were identified. The three associated funerary objects are one ceramic jar, one shell, and one lot of shell fragments. Based on ceramic analysis, these human remains and funerary objects likely date to A.D. 950–1150, during the Sedentary Period of the Hohokam cultural sequence.

On an unknown date during or prior to 1970, human remains representing, at minimum, one individual were removed from an unrecorded site, designated AZ EE: 1:—Green Valley, near Green Valley in Pima County, AZ. The human remains and associated funerary objects were donated by Ramon Ahumada to the ASM in 1970. No known individuals were identified. The two associated funerary objects are one ceramic jar and one ceramic bowl fragment. Based on ceramic analysis, these human remains and associated funerary objects likely date to A.D. 850–950, during the Colonial Period of the Hohokam cultural sequence.

In 1999, human remains representing, at minimum, one individual were removed from an unrecorded site, designated AZ EE:1:—ML–99–1230, located in Pima County, AZ. The human remains and associated funerary objects were collected by highway workers, who found them along a road. The human remains and objects were initially transferred to the Pima County Sheriff's Department, and were later transferred to ASM in 2001. No known individuals were identified. The 14 associated funerary objects are ceramic sherds. Based on ceramic typology, the human remains likely date to A.D. 450–1450, which encompasses the Hohokam cultural sequence.

1n 1983, human remains representing, at minimum, one individual were removed from an unrecorded site, designated AZ EE:1:—Private Ranch, located on private land east of Green Valley in Pima County, AZ. The human remains loaned to ASM by Armando Gonzales in 1983 and donated by him in 1995. No known individuals were identified. No associated funerary objects are present. Based on the typology of ceramics reportedly found in association with these human remains (but not donated to ASM), these human remains likely date to A.D. 450–1450, which encompasses the Hohokam cultural sequence.

In 1969, human remains representing, at minimum, one individual were removed from site AZ EE:1:87(ASM), located on private land near Sahuarita in Pima County, AZ. The burial was discovered by a local resident, who reported the discovery to ASM. Walter Birkby and James Ayres of ASM subsequently excavated the burial. The human remains and associated funerary objects were donated to the Arizona State Museum in 1969 and given an accession number. No known individuals were identified. The one associated funerary object is a ceramic jar.

In 1985 or earlier, human remains representing, at minimum, one individual were removed from the same site, AZ EE:1:87(ASM), during a survey conducted by the Institute for American Research, under the direction of William Doelle. The human remains were not recognized at the time of collection. The survey collections were brought to ASM. In 2010, ASM staff found highly fragmentary human remains in the site survey box. No known individuals were identified. No associated funerary objects are present. Site AZ EE:1:87(ASM) likely dates to the Hohokam Sedentary Period, A.D. 950–1150, based on ceramic analysis.

In 1973, human remains representing, at minimum, one individual were removed from site AZ EE:1:88(ASM), located near Green Valley in Pima County, AZ. Collections from this site were removed by ASM personnel after ASM had been alerted that an archeological site was being destroyed by construction activity. These collections were received by ASM in 1973. The human remains were not recognized at the time they were collected. In 2010, museum staff discovered the human remains in the site survey collections. No known individuals were identified. No associated funerary objects are present. This site is described as a small habitation site with a cremation area. Based on analysis of ceramics observed at this site, these human remains likely date to A.D. 450–1450, which encompasses the Hohokam cultural sequence.

In 1965, human remains representing, at minimum, one individual were removed from site AZ EE:11:6(ASM), located on private land south of Sierra Vista in Cochise County, AZ, during a survey conducted by ASM staff. Collections from this site were received by ASM during or after 1965. The human remains were not recognized at the time they were collected. In 2010, museum staff discovered the human remains in the site survey collections. No known individuals were identified. No associated funerary objects are present. This site is a village with about 10 rooms. Based on the ceramics observed at this site, these human remains likely date to A.D. 1150–1450, during the Classic Period of the Hohokam cultural sequence.

In 1976, human remains representing, at minimum, one individual were removed from an unrecorded site, designated AZ EE:12:—Rio Rico, located near Rio Rico in Cochise County, AZ. These human remains were possibly excavated by a member of the Pimeria Alta Historical Society. They were received by ASM sometime in 1976. No known individuals were identified. No associated funerary objects are present. Based on the artifacts observed with these human remains when they were removed, these human remains likely date to A.D. 450–1450, which encompasses the Hohokam cultural sequence.

At an unknown date prior to 1996, human remains representing, at minimum, one individual were likely removed from site AZ EE:12:1(ASM), on a private ranch in Cochise County, AZ. These human remains were probably removed by ranch owner Ed Lehner. These human remains were received by ASM in 1996, along with other materials transferred by the Cochise County Archeological and Historical Society. Based on an accompanying handwritten note, these human remains were excavated by Mr. Lehner, and were dated by William Wasley of the University of Arizona to 400–600 years before the present. No known individuals were identified. No associated funerary objects are present. Site AZ EE:12:1(ASM) has both Paleoindian and Hohokam components. Based on the note found with the human remains, the individual represented by these human remains possibly dates to the late Hohokam or Upper Piman period, A.D. 1400–1600.

In the years 1954–1957, human remains representing, at minimum, one individual were removed from site AZ EE:2:10(ASM), located in the Empire Valley in Pima County, AZ. The site was originally explored in 1954 and 1955 by the University of Arizona, under the direction of Emil W. Haury, and was subsequently excavated in 1957 by the University of Arizona, under the direction of Frank Eddy. These human remains were received by ASM in 1958. No known individuals were identified.

No associated funerary objects are present with these human remains.

Sometime before 2010, human remains representing, at minimum, one individual were removed from the same site, AZ EE:2:10(ASM), during a survey. These human remains were received by ASM at an unknown date. In 2010, museum staff discovered the human remains in the site survey collections. No known individuals were identified. The one associated funerary object is a shell bead. This site contains one pit house and two trash zone deposits, layered one on top of the other. All human remains from this site date to A.D. 450–1450, which encompasses the Hohokam cultural sequence.

In 1982, human remains representing, at minimum, 12 individuals were removed from site AZ EE:2:137(ASM), located on private land in the Empire Valley in Pima County, AZ. Following severe flooding, a human burial was discovered eroding out of a bank. With the permission of the landowner, excavations were conducted by ASM, under the direction of Bruce Huckell. Collections from this site were received by ASM in 1982. No known individuals were identified. The 92 associated funerary objects are: one animal bone fragment, two lots of charcoal, 84 fragments of chipped stone, one chipped stone tool, two flotation samples, one pollen sample, and one stone projectile point. This site consists of a large exposure of artifacts, including fire cracked rock fragments, animal bones, and charcoal. Radiocarbon dates indicate a range of approximately 750 B.C.–A.D. 130. Based on radiocarbon dates, material culture, and mortuary practices, these human remains are likely associated with the Late Archaic/Early Agricultural cultural horizon.

Sometime in 1937 or later, human remains representing, at minimum, one individual were removed from site AZ EE:2:2(ASM), located on private land in Santa Cruz County, AZ, during a survey along Cienega Creek conducted by Edward Danson. Collections from this site were received by ASM during or after 1937. The human remains were not recognized at the time of the survey. In 1996, museum staff discovered the human remains in the site survey collections. No known individuals were identified. No associated funerary objects are present. The burial site likely dates to the Hohokam period, A.D. 450–1450, based on ceramics reported on the site survey card.

In 1982 and1983, human remains representing, at minimum, six individuals were removed from site AZ EE:2:30(ASM), located on private land in Matty Canyon in the Empire Valley, near the junction of Matty Wash with Cienega Creek in Pima County, AZ. Following severe flooding, it was reported that a human burial was eroding out of a bank. Permission to excavate this site was granted by the landowner. The excavations were conducted by ASM, under the direction of Bruce Huckell. No known individuals were identified. No associated funerary objects are present.

In 1989, human remains representing, at minimum, one individual were removed from the same site, AZ EE:2:30(ASM), by unknown persons. These human remains were brought to ASM. No known individuals were identified. No associated funerary objects are present with these remains. Site AZ EE:2:30(ASM) was occupied during the Late Archaic period (800 B.C.–A.D. 200) and the Hohokam Sedentary Period (A.D. 900–1150). Based on the material culture discovered around the burials removed by Bruce Huckell, five burials likely date to the Late Archaic period and one burial likely dates to the Hohokam Sedentary Period. The burial removed in 1989 could date to either of these two periods.

In 1967, human remains representing, at minimum, one individual, were removed from site AZ EE:2:50(ASM), located on private land near Pantano Wash in Pima County, AZ. These human remains were removed over the course of excavations conducted by ASM, under the direction of E. Thomas Hemmings. Collections from this excavation were received by ASM in 1967. No known individuals were identified. No associated funerary objects are present.

In 1977, human remains representing, at minimum, one individual were removed from the locality of AZ EE:2:50(ASM), by an unknown excavator. These human remains were received by ASM in 1982. No known individuals were identified. No associated funerary objects are present. Site AZ EE:2:50(ASM) is a long midden zone that was exposed by a cut bank of the Pantano Wash. It contains charcoal, fire cracked rock, lithic debris, stone tools, and animal bone. The human remains likely date to the Early Ceramic to Hohokam Pioneer Period, A.D. 260–530, based on calibrated radiocarbon dating.

In 1958, human remains representing, at minimum, one individual, were removed from AZ EE:4:1(ASM), located on private land near St. David in Cochise County, AZ. These human remains were removed by William Wasley and Richard Shutler, and were received by ASM in 1958. No known individuals were identified. No associated funerary objects are present. This site represents a small exposure of a larger, San Pedro stage Late Archaic site along the bank of the San Pedro River. Based on the material culture observed at this site, these human remains are affiliated with the Late Archaic cultures, and date to 1500 B.C.–A.D. 1.

In 1949, human remains representing, at minimum, one individual were removed from AZ EE:6:4(ASM), also recorded as AZ EE:6:26(ASM), located in O'Donnell Canyon in Santa Cruz County, AZ. Collections from this site were removed as part of a survey conducted by ASM, under the direction of Earl Swanson. These collections were likely received by ASM in 1949. The human remains were not recognized at the time of the survey. In 2010, museum staff discovered the human remains in the site survey collections. No known individuals were identified. No associated funerary objects are present. This site is an extensive prehistoric sherd, lithic, and ground stone scatter, probably representing a Hohokam habitation site. Based on ceramic identification, these human remains likely date to A.D. 1000–1300, during the Sedentary and Classic Periods of the Hohokam cultural sequence.

In 1995 human remains representing, at minimum, two individuals were removed from site AZ EE:7:86(ASM), located on Arizona State land near the Babacomari River, near Huachuca City in Cochise County, AZ. Collections from this site were removed as part of the Babacomari Ranch Survey conducted by ASM, under the direction of Bruce Huckell. These collections were received by ASM following the survey. No known individuals were identified. No associated funerary objects are present. This site consists of several rock-filled pits and a thin scatter of flaked and ground stone artifacts. Based on the material culture observed at this site, these human remains likely date to the Late Archaic period, 400–200 B.C.

In 1944, human remains representing, at minimum, one individual were removed from site AZ EE:7:9(ASM), which may be the same site as AZ EE:6:3(ASM), possibly located near Tombstone in Cochise or Santa Cruz County, AZ. Collections from this site were removed over the course of an ASM site survey conducted by Emil Haury. These collections were received by ASM following this survey. The human remains were not recognized at the time of the survey. In 2010, museum staff discovered the human remains in the site survey collections. No known

individuals were identified. No associated funerary objects are present. This site is described as a village site with Dragoon red-on-brown ceramics and trough metates. Based on the ceramics observed at the site, these human remains likely date to A.D. 900–1100, and may be associated with either Hohokam or Mogollon cultural groups.

In 1968 human remains representing, at minimum, one individual, were removed from site AZ EE:8:38(ASM), located near the San Pedro River in Cochise County, AZ, by an archeological survey crew from ASM during the Central Arizona Project. Collections from this survey were received by ASM. The human remains were not recognized at the time of the survey. In 2010, museum staff discovered the human remains in the site survey collections. No known individuals were identified. No associated funerary objects are present. This site is described as a village with possible structures, hearths, stone tools, and ceramics. Based on the material culture observed at this site, these human remains are affiliated with Hohokam or Salado cultural groups, and date from A.D. 450–1450.

In 1968, human remains representing, at minimum, two individuals, were removed from site AZ EE:8:68(ASM), located on private land in Cochise County, AZ. The human remains were removed by an archeological survey crew from ASM during the Central Arizona Project. Collections from this survey were received by ASM following the survey. The human remains were not recognized at the time of the survey. In 2010, museum staff discovered the human remains in the site survey collections. No known individuals were identified. No associated funerary objects are present. This site reportedly contained at least five hearths, lithic debris, manos, and fire cracked rock. Pottery was absent. This site is described as an open Cochise camp. Based on the material culture observed at the site, these human remains likely date to the Archaic period, 4000 B.C.–A.D. 200.

In 1966, human remains representing, at minimum, 63 individuals were removed from site AZ EE 9:53(ASM), located on private land near Portrero Creek in Santa Cruz County, AZ, by the Arizona State Museum, under the direction of James Sciscenti during a highway salvage project. The human remains were received by the Arizona State Museum in 1966. No known individuals were identified. The 20 associated funerary objects are: three animal bone fragments, one bone awl, two ceramic disks, three ceramic jars, one chipped stone blade, one hammer stone, one hand stone, two manos, one lot of shell beads, one shell pendant fragment, one shell ring fragment, one stone artifact, one stone projectile point, and one turquoise pendant. This site is described as a Hohokam village. Excavations revealed 11 Hohokam pithouses, as well as hearths, pits, ramadas, and food and lithic processing areas. Based on ceramic evidence, occupation at this site occurred during the Colonial, Sedentary, and Classic Periods of the Hohokam cultural sequence, A.D. 850–1450.

In 1968, human remains representing, at minimum, five individuals were recovered from site AZ EE:9:67(ASM), located on land owned by St. Andrew's Church on Nogales Wash, in Santa Cruz County, AZ. The human remains were recovered by construction workers while the St. Andrews Church building was being constructed. These human remains were transferred to ASM following their removal. No known individuals were identified. No associated funerary objects are present.

In 1978, human remains representing, at minimum, 10 individuals were removed from the same site, AZ EE:9:67(ASM), by construction workers and archeologists from ASM while a sewer line was being constructed. These human remains were received by ASM sometime in 1978 or later. No known individuals were identified. The six associated funerary objects are four animal bone fragments and two bone awls. This site consists of a dense sherd and lithic scatter; three pit houses were also noted. Based on the ceramic evidence observed at this site, these human remains likely date to A.D. 950–1300, during the Sedentary and Classic Periods of the Hohokam cultural sequence.

In 1928, human remains representing, at minimum, eight individuals were removed from site AZ EE:9:68(ASM), on City of Nogales property in Santa Cruz County, AZ. The remains were likely removed during a University of Arizona expedition, and were received by the Arizona State Museum in 1928. No known individuals were identified. The six associated funerary objects are five ceramic jars and one ceramic bowl.

In 1969, human remains representing, at minimum, 11 individuals were removed from the same site. These human remains were discovered on land belonging to the City of Nogales during the construction of Interstate Highway 19. Emergency salvage excavations were conducted by ASM, under the direction of Laurens Hammack. This collection was received by ASM in 1976. No known individuals were identified. The 121 associated funerary objects are: One bone awl fragment, one bone ring, seven ceramic jars, two ceramic jar fragments, 93 ceramic sherds, one lot of pigment, one shell bead, 14 shell bracelet fragments, and one stone palette fragment. Few details regarding the archeological context of these human remains are known. Based on ceramic evidence, these human remains likely date to A.D. 850–950, during the Hohokam Colonial Period, and are culturally affiliated with Hohokam and Trincheras cultural groups.

In 1972, human remains representing, at minimum, 16 individuals were removed from site AZ EE:9:85(ASM), located on private land north of Nogales in Santa Cruz County, AZ, during a construction project. Excavations were conducted by ASM, under the direction of James Ayres and Patricia Goree. At an unknown date, the human remains were brought to the Arizona State Museum. No known individuals were identified. The 759 associated funerary objects are: 757 ceramic sherds, one shell artifact, and one stone projectile point. Few details about the site are known. Based on the ceramics recovered, this site is a cremation area of probable Hohokam cultural affinity, and dates to A.D. 450–1450, which encompasses the Hohokam cultural sequence.

In 1940, human remains representing, at minimum, one individual were removed from site AZ FF 10:4(ASM), located on private land along Whitewater Draw in Cochise County, AZ. These human remains were removed during excavations by the Gila Pueblo Field School, directed by Edwin B. Sayles. A survey collection from this site was received by ASM at an unknown date. These human remains were not recognized at the time they were collected. In 2010, museum staff discovered fragmentary human remains in the site survey collections. No known individuals were identified. No associated funerary objects are present. This site appears to have been occupied during the Chiricahua phase of the Archaic period, approximately 5000–1500 B.C, based on the artifacts identified there.

At an unknown date prior to 1970, human remains representing, at minimum, five individuals were removed from site AZ FF:11:17(ASM), located on land owned by the Glenn family, east of Douglas in Cochise County, AZ. Four of the burials were excavated by the landowners, and the fifth burial was removed by Emil Haury and Walter Birkby of ASM. The remains were received by ASM in 1973. No known individuals were identified. No

associated funerary objects are present. Little is known about this site, as it was not formally excavated. Based on the artifacts observed at the site, these human remains likely date to the Archaic period, 4800–1200 B.C., and may be affiliated with the Chiricahua-San Pedro culture.

In 1938, human remains representing, at minimum, one individual were removed from site AZ FF:2:1(ASM), located in the Turkey Creek drainage near Sunizona in Cochise County, AZ. Collections from this site were removed during an archeological survey. These collections were received by ASM at an unknown date during 1938 or later. These human remains were not recognized at the time they were collected. In 2010, museum staff discovered these human remains in the site survey collections. No known individuals were identified. No associated funerary objects are present. This site contains adobe walled, contiguous room structures, and polychrome ceramics. This site dates to A.D. 1240–1450, based on the material culture observed there and is associated with Late Classic period Hohokam or Salado cultural groups.

On an unknown date during or prior to 1962, human remains representing, at minimum, one individual were removed site AZ FF:2:4(ASM), located on private land in Cochise County, AZ. Collections from this site were removed during an archeological survey. These collections were received by ASM at an unknown date during 1962 or later. These human remains were not recognized at the time they were collected. In 2010, museum staff discovered these human remains in the site survey collections. No known individuals were identified. No associated funerary objects are present. This site is described as a village. Artifacts at this site include ceramics, stone tools, and burnt roofing clay. Based on the material culture observed at this site, these human remains date to A.D. 1150–1450, and are affiliated with Late Classic period Hohokam or Salado cultural groups.

In 1962, human remains representing, at minimum, six individuals were removed from site AZ FF:3:8(ASM), located on private land in the Turkey Creek drainage in Cochise County, AZ. This collection was brought to ASM in 1963. No known individuals were identified. The one associated cultural object is a lot of stone beads. Site AZ FF:3:8(ASM) is a small, adobe-walled Mogollon village composed of two room blocks enclosing a plaza. Based on ceramic typology, these human remains likely date to A.D. 1250–1325, and are affiliated with Mogollon and possibly Hohokam cultural groups.

In 1971, human remains representing, at minimum, three individuals, were removed from site AZ FF:6:1(ASM), located on private land near Douglas in Cochise County, AZ. The human remains were removed during archeological excavations conducted by the Cochise County Historical and Archeological Society. The human remains were donated to ASM in 1995. No known individuals were identified. The one associated cultural object is a soapstone plate. This site is described as a ceramic cluster. Based on ceramics reported at this site, these human remains likely date to A.D. 450–1450, which encompasses the Hohokam cultural sequence.

1n 1972 or 1974, human remains representing, at minimum, two individuals, were removed from site AZ FF:6:14(ASM), located on private land west of the Chiricahua Mountains in Sulphur Spring Valley in Cochise County, AZ. This site was surveyed by Cochise College in 1972 and excavated in 1974 by the same institution. Collections from this site were received by ASM in the 1980s. These human remains were not recognized at the time they were collected. In 2007, museum staff discovered these human remains in the faunal collections. No known individuals were identified. No associated funerary objects are present. This site is described as a large room block with rock alignments and puddled adobe. Based on ceramics observed at this site, these remains likely date to A.D. 1100–1300, and are affiliated with Hohokam or Salado cultural groups.

Between 1978 and 1985, human remains representing, at minimum, six individuals were removed from site AZ FF:9:10, located on private land along the Mexico/United States border in Cochise County, AZ. These human remains were removed by a crew of volunteer excavators from the Cochise County Historical and Archeological Society. These collections were received by ASM in 1995. These human remains were not recognized at the time they were collected. In 2008, the human remains were discovered in the faunal collections. No known individuals were identified. The 22 associated funerary objects are 20 chipped stone fragments, one shell fragment, and one stone pendant. This site consists of a lithic and ceramic scatter with no surface indication of structures, rock alignments, or other features. Based on the material culture observed at this site, these human remains may date from 1200 B.C.—A.D. 1450, and may be affiliated with Late Archaic, Hohokam, Salado, or Cochise cultural groups.

On an unknown date prior to 1996, human remains representing, at minimum, one individual were removed by a private citizen from an unknown location, designated AZ T–022, reported to be near the Santa Cruz River in Tucson, Pima County, AZ. These human remains were received by ASM on an unknown date. No known individuals were identified. No associated funerary objects are present. A note found with the human remains states that they were found in a pot. There is no indication that the pot was donated to the museum. Based on the placement of burned human remains in a ceramic vessel and the geographic location of the discovery, these human remains likely date to A.D. 450–1450, which encompasses the Hohokam cultural sequence.

On an unknown date during or prior to 2016, human remains representing, at minimum, three individuals were removed by an unknown person from an unknown location in southern Arizona, designated AZ Unknown South. The human remains were found in a package that was left at an office door at ASM with no indication of the donor or the place of discovery. The human remains were in a container that also included artifacts, which had plausibly been found together with the human remains. No known individuals were identified. The 19 associated funerary objects are: Two fragments of animal bone, one fragment of botanical material, two ceramic sherds, one fragment of paper, one lot of shell beads, one shell fragment, eight stones, two textile fragments, and one fragment of unidentified organic material. Based on the associated ceramic objects, these human remains likely were obtained from a burial site in southern Arizona, dated to A.D. 450–1450, and affiliated with Hohokam cultural groups.

On an unknown date, possibly in 1949 or 1957, human remains representing, at minimum, two individuals were removed from site, AZ Z:2:1(ASM), located in the Gila Bend area of Maricopa County, AZ. These remains were removed over the course of archeological survey carried out by ASM in 1949 or in 1957, as part the Painted Rocks Reservoir Project. These human remains were not recognized as such when they were collected. Collections from this survey were received by ASM at an unknown date. In 2010, these human remains were discovered by ASM staff in survey collections from this site. No known individuals were identified. No associated funerary objects are present.

In 1960, human remains representing, at minimum, one individual were removed from the same site, AZ Z:2:1(ASM). Collections from this site were removed during archeological excavations by ASM for the Painted Rocks Reservoir Project, under the direction of William W. Wasley and Alfred E. Johnson, and under a contract with the National Park Service. These human remains were not recognized as such when they were collected. These collections were received by ASM in 1960. In 2005, these human remains were identified by ASM staff in faunal collections from this site. No known individuals were identified. No associated funerary objects are present. This site is a large Hohokam settlement occupied during the Colonial and Sedentary periods, consisting of a house mound or platform mound, several trash mounds, two ball courts, and a prehistoric canal. Based on site dates, these human remains date to A.D. 750–1150.

Archeologists describe the earliest settlements in southern Arizona as belonging to the Late Archaic/Early Agricultural horizon. Recent archeological investigations have added support to the hypothesis that the Hohokam cultural tradition arose from the earlier horizon, based on continuities in settlement pattern, architectural technologies, irrigation technologies, subsistence patterns, and material culture. Archeologists have had difficulty dating the beginning of the Hohokam period because the appearance of its distinctive cultural traits, including ceramic technologies and mortuary patterns, was a gradual process spanning several hundred years. This observation adds further support to the hypothesis that the Hohokam tradition evolved in place from earlier Late Archaic traditions. Linguistic evidence furthermore suggests that the Hohokam tradition was multiethnic in nature. Cultural continuity between these prehistoric occupants of Southern Arizona and present-day O'odham peoples is supported by continuities in settlement pattern, architectural technologies, basketry, textiles, ceramic technology, and ritual practices.

Archeologists have also recognized the presence of people associated with the Mogollon tradition in southeastern Arizona. Their presence there is thought to represent a migration of people from the mountainous region to the north, where the Mogollon archeological culture was originally defined. Material culture characteristics of Mogollon traditions include a temporal progression from earlier pit houses to later masonry pueblos, villages organized in room blocks of contiguous dwellings associated with plazas, rectangular kivas, polished and paint-decorated ceramics, painted and unpainted corrugated ceramics, red and brown ceramics, inhumation burials, cradleboard cranial deformation, grooved stone axes, and bone artifacts. In southeastern Arizona, there is evidence for both Hohokam and Mogollon traditions, but it is unclear whether these traditions represent separate occupations of different people who interacted and exchanged material culture, or cohabitation and a blending of identities.

Oral traditions that are documented for the Ak-Chin Indian Community (previously listed as the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona); Gila River Indian Community of the Gila River Indian Reservation, Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; and the Tohono O'odham Nation of Arizona support cultural affiliation with Late Archaic/Early Agricultural period and Hohokam sites in southern Arizona.

Oral traditions that are documented for the Hopi Tribe also support cultural affiliation with Late Archaic/Early Agricultural period and Hohokam sites in the region. Several Hopi clans and religious societies are derived from ancestors who migrated from the south and likely identified with the Hohokam tradition. Oral traditions and archeological evidence also support affiliation of Hopi clans with the Mogollon archeological sites.

Oral traditions of medicine societies and kiva groups of the Zuni Tribe recount migration from distant portions of the Southwest to present day Zuni, and support affiliation with Mogollon, Hohokam, and Late Archaic traditions. Historical linguistic analysis also suggests interaction between ancestral Zuni and Uto-Aztecan speakers during the late Hohokam period.

Determinations Made by the Arizona State Museum

Officials of the Arizona State Museum have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 662 individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 10,418 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Ak-Chin Indian Community (previously listed as the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona); Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and the Zuni Tribe of the Zuni Reservation, New Mexico, hereafter referred to as ''The Tribes.''

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to John McClelland, NAGPRA Coordinator, P.O. Box 210026, Arizona State Museum, University of Arizona, Tucson, AZ 85721, telephone (520) 626–2950, email *jmcclell@email.arizona.edu,* by November 16, 2018. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to The Tribes may proceed.

The Arizona State Museum is responsible for notifying The Consulted Tribes that this notice has been published.

Dated: September 14, 2018.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2018–22597 Filed 10–16–18; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–DTS#-26590; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting comments on the significance of properties nominated before September, 22, 2018, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted by November 1, 2018.

ADDRESSES: Comments may be sent via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C St. NW, MS 7228, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before September, 22, 2018. Pursuant to Section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Nominations submitted by State Historic Preservation Officers:

ARIZONA

Maricopa County,

Phoenix Motor Company, 401 W Van Buren St., Phoenix, SG100003064

IOWA

Jasper County

Colfax Spring City Commercial Historic District, Roughly Division to Front Sts. between Elm & Locust Sts., Colfax, SG100003065

Woodbury County

Everett School, 1314 W 3rd St., Sioux City, SG100003066

MASSACHUSETTS

Franklin County

Gill Center Historic District, Center, Main, Cross, Boyle, River, & Lyons Hill Rds., Gill, SG100003068

Middlesex County

Dunstable Center Historic District, High, Highland, Main, & Pleasant Sts., Dunstable, SG100003069

Suffolk County

Esmond Street Historic District, Bicknell, Bradshaw, Esmond, & Harvard Sts., Boston, SG100003070

SOUTH DAKOTA

Charles Mix County

Security State Bank of Dante, 320 Main St., Dante, SG100003072

TEXAS

Bexar County

Poe Motor Company, 900 Broadway St., San Antonio, SG100003073

Additional documentation has been received for the following resource:

ARIZONA

Maricopa County

Campus Vista Historic District (Residential Subdivisions and Architecture in Central Phoenix, 1870–1963, MPS), 923 W Catalina Dr., Phoenix, AD10000321

Nominations submitted by Federal Preservation Officers:

The State Historic Preservation Officer reviewed the following nomination and responded to the Federal Preservation Officer within 45 days of receipt of the nomination and supports listing the property in the National Register of Historic Places.

OHIO

Greene County

Brick Quarters Historic District, Chidlaw Rd. & Metzger Dr., Wright-Patterson AFB, SG100003071

The following nomination is not located in state waters and therefore not subject to review by the State Historic Preservation Officer:

LOUISIANA

Plaquemines Parish

ANONA (shipwreck and remains), Address Restricted, Pilottown vicinity, SG100003067

Authority: Section 60.13 of 36 CFR part 60.

Dated: September 24, 2018.

Julie H. Ernstein,

Acting Chief, National Register of Historic Places/National Historic Landmarks Program and Deputy Keeper of the National Register of Historic Places.

[FR Doc. 2018–22525 Filed 10–16–18; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0026535; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: California Department of Parks and Recreation, Sacramento, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The California Department of Parks and Recreation has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and associated funerary objects and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the California Department of Parks and Recreation. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the California Department of Parks and Recreation at the address in this notice by November 16, 2018.

ADDRESSES: Leslie Hartzell, Ph.D., NAGPRA Coordinator, Cultural Resources Division Chief, California State Parks, P.O. Box 942896, Sacramento, CA 94296–0001, telephone (916) 653–9946, email *leslie.hartzell@parks.ca.gov.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the California Department of Parks and Recreation, Sacramento, CA. The human remains and associated funerary objects were removed from an unknown site at Lake Britton, Shasta County, CA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the California Department of Parks and Recreation professional staff in consultation with

representatives of the Alturas Indian Rancheria, California; Pit River Tribe, California (includes XL Ranch, Big Bend, Likely, Lookout, Montgomery Creek and Roaring Creek Rancherias); Round Valley Indian Tribes, Round Valley Reservation, California (previously listed as the Round Valley Indian Tribes of the Round Valley Reservation, California); and the Susanville Indian Rancheria, California. The Redding Rancheria, California was invited to consult, but did not participate.

History and Description of the Remains

In 1963, human remains representing, at minimum, two individuals were removed from an unknown site at Lake Britton in Shasta County, CA. The human remains were collected by McArthur-Burney State Park staff after they were reported eroding out of the shoreline approximately six miles from the park. No known individuals were identified. The five associated funerary objects are one obsidian scraper, one olivella bead, two bone tool fragments, and one unmodified mammal bone.

The age of the human remains is unknown. They were determined to be Native American based on the associated funerary objects and geographic context. Archeological evidence from the Lake Britton area shows at least 7,500 years of occupation. The associated funerary objects are consistent with the period when the area would have been occupied by the historic or ancestral Achumawi (Pit River). Geographic affiliation is consistent with the historically documented boundary areas between the Madesiwi, Ilmawi, and Itsatawi bands. Through consultation, shared group identity has been traced between the human remains, associated funerary objects, and the Alturas Indian Rancheria, California; Pit River Tribe, California (includes XL Ranch, Big Bend, Likely, Lookout, Montgomery Creek and Roaring Creek Rancherias); Redding Rancheria, California; Round Valley Indian Tribes, Round Valley Reservation, California (previously listed as the Round Valley Indian Tribes of the Round Valley Reservation, California); and the Susanville Indian Rancheria, California, hereafter referred to as ''The Tribes.''

Determinations Made by the California Department of Parks and Recreation

Officials of the California Department of Parks and Recreation have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of two individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the five objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and The Tribes.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Leslie Hartzell, Ph.D., NAGPRA Coordinator, Cultural Resources Division Chief, California State Parks, P.O. Box 942896, Sacramento, CA 94296–0001, telephone (916) 653–9946, email *leslie.hartzell@parks.ca.gov,* by November 16, 2018. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to The Tribes may proceed.

The California Department of Parks and Recreation is responsible for notifying The Tribes that this notice has been published.

Dated: September 19, 2018.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2018–22591 Filed 10–16–18; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0026438; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Sam Noble Oklahoma Museum of Natural History, Norman, OK

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Sam Noble Oklahoma Museum of Natural History at the University of Oklahoma has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and associated funerary objects and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the Sam Noble Oklahoma Museum of Natural History. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the Sam Noble Oklahoma Museum of Natural History at the address in this notice by November 16, 2018.

ADDRESSES: Dr. Marc Levine, Assistant Curator of Archeology, Sam Noble Oklahoma Museum of Natural History, University of Oklahoma, 2401 Chautauqua Avenue, Norman, OK 73072–7029, telephone (405) 325–1994, email *mlevine@ou.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the Sam Noble Oklahoma Museum of Natural History, Norman, OK. The human remains and associated funerary objects were removed from Atoka, Delaware, Haskell, Hughes, Latimer, Muskogee, Payne, and Sequoyah Counties, OK.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Sam Noble Oklahoma Museum of Natural History professional staff in consultation with representatives of the Caddo Nation of Oklahoma and the Wichita and

Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma, hereafter referred to as ''The Tribes.''

History and Description of the Remains

In 1973, human remains representing, at minimum, one individual were removed from the McCasland-Watts/Box Car site (34Lt38) in Latimer County, OK, and donated to the Museum in 1981 and 1993. The human remains include the fragmentary skeleton of an adult female, 35–50 years old. No known individuals were identified. The 685 associated funerary objects include 580 stone flakes, one stone biface fragment, one ground stone fragment, one piece of daub, and 102 faunal bone fragments. Diagnostic artifacts from site 34Lt38 suggest that these human remains were buried during the Woodland Period (300 B.C.–A.D. 1000).

In 1987, human remains representing, at minimum, seven individuals were removed from the Solomon's Mound site (34Lt78) in Latimer County, Oklahoma. The site was excavated by the Oklahoma Archeological Survey, and the material was transferred to the Museum in 1988. The human remains include bone fragments of a child 5–10 years old and the commingled remains of six adults, two of whom are female, one of whom is male, and three of whom are of indeterminate sex. Two of the adults are 35–50 years old, and the other four are at least 20 years old. No known individuals were identified. The 42 associated funerary objects include 30 faunal bone fragments, two ceramic sherds, and 10 shell fragments. Diagnostic artifacts from site 34Lt78 suggest that the human remains were buried during the Woodland Period (300 B.C.–A.D. 1000).

In 1938, human remains representing, at minimum, 24 individuals were removed from the Hughes site (34Ms4) in Muskogee County, Oklahoma. The site was excavated by the Works Progress Administration, and the material was subsequently transferred to the Museum. The human remains include bone fragments and/or teeth of 17 adults, three of whom are male or probably male and 14 of whom are of indeterminate sex, and two children, one-to-three and four-to-six years in age. The human remains also include the fragmentary skeleton of an adult female; the commingled human remains of an adult and an adolescent of indeterminate sexes; and the commingled human remains of an adult male and a child. No known individuals were identified. The 662 associated funerary objects include three charcoal fragments, 141 faunal bone fragments, one stone knife, five stone scrapers, 20 stone flakes, 16 stone projectile points, four stone projectile points with double points, three ground stone abraders, three copper stained stone ear spools, one mano fragment, one discoidal chunkey stone, one t-shaped stone pipe fragment, one red stone pipe, one cone-shaped ground stone fragment, one quartzite fragment, two unmodified stones, two metal beads on a wire, one copper bead, one copper knife, two copper pins, one copper strip, 134 glass beads, two ceramic bottles, three ceramic vessels, one ceramic vessel fragment, two ceramic pipe fragments, 290 ceramic sherds, one burned clay fragment, one copper stained wood fragment, eight wooden bowl fragments, one charred corn cob, one copper covered shell bead, and seven textile fragments. Diagnostic artifacts from site 34Ms4 suggest that the human remains were buried during the Mississippian Period (A.D. 900–1450) and the following period of initial Spanish contact.

Between 1937 and 1939, human remains representing, at minimum, three individuals were removed from the Reed 2 site (34Dl2) in Delaware County, Oklahoma. This site was excavated by the Works Progress Administration on private land held by the Reed family, and the material was subsequently donated to the Museum. The human remains include the partial skeleton of a young adult female 20–35 years of age, and the fragmentary skeleton of an infant approximately one year in age. No known individuals were identified. The one associated funerary object is a small ceramic vessel. Diagnostic artifacts from site 34Dl2 suggest that the human remains were buried during the Mississippian Period (A.D. 900–1450).

In 1937, human remains representing, at minimum, 34 individuals were removed from the Reed 4 site (34Dl4) in Delaware County, Oklahoma. This mound site was excavated by the Works Progress Administration, and the material was later transferred to the Museum. The human remains include bone fragments and/or teeth of 26 adults, six of whom are male and 20 of whom are of indeterminate sex; five adolescents; two children; and one infant. No known individuals were identified. The 32 associated funerary objects include one chert knife, one corner notched stone projectile point fragment, one gray slate celt, one serpentine ground stone spud, one nodule of gypsum, one ceramic double-bowl, one ceramic blackware bowl, one decorated ceramic bottle, four ceramic vessels, nine copper stained barrel-shaped shell beads, seven copper plated spherical wooden bead fragments, one faunal bone fragment, one mica and ash sample, one copper pin, and one copper plate fragment with adhering textile fragments. Diagnostic artifacts from site 34Dl4 suggest that the human remains were buried during the Mississippian Period (A.D. 900–1450).

In 1977 or 1978, human remains representing, at minimum, two individuals were removed from the Soybean West site (34Sq95) in Sequoyah County, Oklahoma. The site was excavated by the Oklahoma Archeological Survey, and the material was accessioned by the Museum in 1981. The human remains include bone fragments and a partial skull of two adults, one of whom is likely female, while the other is of indeterminate sex. No known individuals were identified. No associated funerary objects are present. Diagnostic artifacts from site 34Sq95 suggest that the human remains were buried during the Mississippian Period (A.D. 900–1450).

In 1937, human remains representing, at minimum, 22 individuals were removed from the Huffaker 1 site (34Dl12) in Delaware County, Oklahoma. The site was excavated by the Works Progress Administration, and the material was transferred to the Museum in 1938. The human remains include bone fragments and/or teeth of a child six-to-10 years in age, two adolescents 15–20 years in age, one adolescent 14–17 years in age, three young adults 20–35 years in age and of indeterminate sex, three adults of indeterminate sex, one adult female, one probable male adult, two adult males, and one adult 35–50 years in age and of indeterminate sex. The human remains also include the fragmentary skeletons of one adult male and one probable female adult, four young adults 20–35 years in age, one of whom is a probable male, while the other three are of indeterminate sex, and the partial skeleton of an adolescent male 18–20 years in age. No known individuals were identified. The 43 associated funerary objects include two faunal bone fragments, three stone flakes, one stone knife, eight stone projectile points, two ground stone celts, two copper covered stone ear spools, one mano, four limestone fragments, one unmodified stone, one copper pin, two decorated ceramic bottles, three undecorated ceramic bottles, two ceramic sherds, one shell bead, nine clay fragments, and one copper stained sediment sample. Diagnostic artifacts from site 34Dl12 suggest that the human remains were buried during the Mississippian Period (A.D. 900–1450).

In 1938, human remains representing, at minimum, five individuals were removed from the McConkey 4 site (34Dl18) in Delaware County, Oklahoma. The site was excavated by the Works Progress Administration on private land, and the material was transferred to the Museum in 1938. The human remains include bone fragments of two young adult males 20–35 years in age, bone fragments of an adult of indeterminate sex, the fragmentary skeleton of a probable male adult, and the fragmentary skeleton of an adult 35–50 years in age and of indeterminate sex. No known individuals were identified. The one associated funerary object is a sample of charcoal. Diagnostic artifacts from site 34Dl18 suggest that the human remains were buried during the Mississippian Period (A.D. 900–1450).

In 1939, human remains representing, at minimum, nine individuals were removed from the Copeland 2 site (34Dl47) in Delaware County, Oklahoma. The site was excavated by the Works Projects Administration between 1939–1940, prior to the construction of a dam on the Grand River, and the material was transferred to the Museum in 1948. The human remains include the fragmentary skeletons of a child six-to-eight years in age, four adult females whose ages are 20–30 years, 25–30 years, 20–35 years, and 30–40 years, and an adult 25–40 years in age and of indeterminate sex. The human remains also include the partial skeleton of an infant approximately nine months old, and bone fragments and/or teeth of a child three-to-five years in age and an infant approximately one year in age. No known individuals were identified. The 13 associated funerary objects include two faunal bone fragments, one insect larva fragment, two stone projectile points, four ceramic sherds, and four textile fragments. Diagnostic artifacts from site 34Dl47 suggest that the human remains were buried during the Mississippian Period (A.D. 900–1450).

In 1938–1939, human remains representing, at minimum, four individuals were removed from the Evans 2 site (34Dl29) in Delaware County, Oklahoma. The site was excavated by the Works Progress Administration between 1938–1939, and the material was transferred to the Museum in 1940. The human remains include the partial skeleton of an adult male 30–45 years in age, bone fragments of a child less than eight years in age, bone fragments of a child two-to-four years in age, and the fragmentary skeleton of an infant, one to one and a half years old. No known individuals were identified. The two associated funerary objects include a ground stone abrader and a ceramic bowl. Diagnostic artifacts from site 34Dl29 suggest that the human remains were buried during the Mississippian Period (A.D. 900–1450) and into the early contact period (A.D. 1450–1650).

In 1958, human remains representing, at minimum, one individual was removed from the Tyler 1 site (34Hs10) in Haskell County, Oklahoma. The site was excavated by the University of Oklahoma for the Short Mountain Reservoir Project, and the material was subsequently transferred to the Museum. The human remains consist of small cranial fragments of an individual of indeterminate age and sex. No known individuals were identified. No associated funerary objects are present. Diagnostic artifacts from site 34Hs10 suggest that the human remains were buried during the Mississippian Period (A.D. 900–1450) and into the early contact period (A.D. 1450–1650).

In 1986, human remains representing, at minimum, four individuals were removed from the Melrose 1 site (34At549) in Atoka County, Oklahoma, after the site had been disturbed by looters. The Oklahoma Archeological Survey salvaged the human remains and associated funerary objects, and transferred them to the Museum in 1987. The human remains include the fragmentary skeleton of an adult male 30–45 years, the partial skeleton of a probable male young adult 25–35 years, and two fragmentary skeletons of adults of indeterminate sex. No known individuals were identified. The 86 associated funerary objects include 52 stone flakes, three stone projectile points, two stone projectile point fragments, one stone biface fragment, one unmodified rock, three ceramic sherds, two clay fragments, 13 shell fragments, one faunal tooth, and eight faunal bone fragments. Diagnostic artifacts from site 34At549 suggest that the human remains were buried during the Woodland or Plains Village Periods (300 B.C.–A.D. 1500).

In 1957, human remains representing, at minimum, one individual were removed from the Sparks I site (34Lt3) in Latimer County, Oklahoma. The site was excavated during the Oklahoma Archeological Salvage Project, and the material was transferred to the Museum in 1957. The human remains include small cranial fragments of an individual of indeterminate age and sex. No known individuals were identified. The four associated funerary objects are stone flakes. Diagnostic artifacts from site 34Lt3 suggest that the human remains were buried during the Late Archaic or Woodland Periods (1500 B.C.–A.D. 1000).

In 1987, human remains representing, at minimum, one individual were removed from the Elliott site (34Py68) in Payne County, Oklahoma. Material from the site was discovered eroding from a stream bank, and was donated to the Museum in 1988. The human remains include a complete skeleton of an adult male 30–40 years in age. No known individuals were identified. The 19 associated funerary objects include one hematite boatstone and 18 faunal bone fragments. Diagnostic artifacts from site 34Py68 suggest that the human remains were buried during the Woodland or Plains Village Periods (300 B.C.–A.D. 1500).

The sites listed in this notice are located in central and eastern Oklahoma, and date from the Late Archaic to the early contact period. Archeological, ethnographic, geographic, and historic evidence, as well as oral tradition demonstrate a continuity of cultural patterns in the region, and support a relationship between the earlier groups at these sites and the present-day Caddo Nation of Oklahoma and the Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma.

Determinations Made by the Sam Noble Oklahoma Museum of Natural History

Officials of the Sam Noble Oklahoma Museum of Natural History have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 118 individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 1,590 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and The Tribes.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Dr. Marc Levine, Assistant Curator of Archeology, Sam Noble Oklahoma Museum of Natural History,

University of Oklahoma, 2401 Chautauqua Avenue, Norman, OK 73072–7029, telephone (405) 325–1994, email *mlevine@ou.edu,* by November 16, 2018. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to The Tribes may proceed.

The Sam Noble Oklahoma Museum of Natural History is responsible for notifying The Tribes that this notice has been published.

Dated: September 6, 2018.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2018–22592 Filed 10–16–18; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0026610; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: The University of Oregon Museum of Natural and Cultural History, Eugene, OR

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The University of Oregon Museum of Natural and Cultural History has completed an inventory of human remains, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to the University of Oregon Museum of Natural and Cultural History. If no additional requestors come forward, transfer of control of the human remains to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to the University of Oregon Museum of Natural and Cultural History at the address in this notice by November 16, 2018.

ADDRESSES: Dr. Pamela Endzweig, Director of Collections, University of Oregon Museum of Natural and Cultural History, 1224 University of Oregon, Eugene, OR 97403–1224, telephone (541) 346–5120, email *endzweig@uoregon.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of the University of Oregon Museum of Natural and Cultural History, Eugene, OR. The human remains were removed from Lincoln County, OR.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by University of Oregon Museum of Natural and Cultural History professional staff in consultation with representatives of the Confederated Tribes of Siletz Indians of Oregon (previously listed as the Confederated Tribes of the Siletz Reservation) and the Confederated Tribes of the Grand Ronde Community of Oregon.

History and Description of the Remains

At an unknown date, human remains representing, at minimum, one individual were removed from Yachats, in Lincoln County, OR. The human remains were donated to the University of Oregon Museum of Natural and Cultural History by a private party (acc. #100JT). The human remains consist of a single adult male (cat. #11–252). No known individual was identified. No associated funerary objects are present. Catalog records indicate a general provenience for the human remains near Yachats. The human remains are determined to be Native American based on skeletal evidence.

In 1959, human remains representing, at minimum, one individual were removed near Yachats, in Lincoln County, OR, during construction of the Adobe Motel. The human remains were donated to the University of Oregon Museum of Natural and Cultural History by a private party in the same year (acc. #185). The human remains consist of a single adult female (cat. #11–315). No known individual was identified. No associated funerary objects are present. Based on skeletal evidence and archeological context, the human remains are determined to be Native American.

Historical documents, ethnographic sources, and oral history indicate that the Alsea people have occupied the Yachats area since pre-contact times. Based on museum records of provenience, the human remains are reasonably believed to be Alsea. Descendants of the Alsea are members of the Confederated Tribes of Siletz Indians of Oregon (previously listed as the Confederated Tribes of the Siletz Reservation).

In September 1960, human remains representing, at minimum, five individuals were removed from Waldport, in Lincoln County, OR, during legally authorized excavations by archeologists from the University of Oregon. The human remains were discovered during the construction of the Jolly Rogers Hotel. The human remains were transferred to the museum in 1961 (acc. #221) and consist of four adults, two males and two females (cat. #11–408) and a youth of indeterminate sex (cat. #11–407). No known individuals were identified. No associated funerary objects are present.

Historic archeological material was found with the human remains, but not donated to the museum. The human remains are determined to be Native American based on archeological context. Based on provenience, the human remains are reasonably believed to be Alsea or Yaquina. Descendants of the Alsea and Yaquina are members of the Confederated Tribes of Siletz Indians of Oregon (previously listed as the Confederated Tribes of the Siletz Reservation).

At an unknown date, human remains representing, at minimum, one individual were removed from the south point of Depoe Bay, in Lincoln County, OR, during septic tank excavations. The human remains were donated to the University of Oregon Museum of Natural and Cultural History by a private party at some point likely in the 1980s (no acc. #). The human remains consist of a single adult male (cat. #11–522). No known individual was identified. No associated funerary objects are present.

Historical documents, ethnographic sources, and oral history indicate that the Siletz people have occupied the Depoe Bay area since pre-contact times. The human remains are determined to be Native American based on archeological contest and skeletal evidence. Based on provenience, the

human remains are reasonably believed to be Siletz. Descendants of the Siletz are members of the Confederated Tribes of Siletz Indians of Oregon (previously listed as the Confederated Tribes of the Siletz Reservation).

Determinations Made by the University of Oregon Museum of Natural and Cultural History

Officials of the University of Oregon Museum of Natural and Cultural History have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of eight individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Confederated Tribes of Siletz Indians of Oregon (previously listed as the Confederated Tribes of the Siletz Reservation).

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Dr. Pamela Endzweig, Director of Collections, University of Oregon Museum of Natural and Cultural History, 1224 University of Oregon, Eugene, OR 97403–1224, telephone (541) 346–5120, email *endzweig@uoregon.edu,* by November 16, 2018. After that date, if no additional requestors have come forward, transfer of control of the human remains to the Confederated Tribes of Siletz Indians of Oregon (previously listed as the Confederated Tribes of the Siletz Reservation) may proceed.

The University of Oregon Museum of Natural and Cultural History is responsible for notifying the Confederated Tribes of Siletz Indians of Oregon (previously listed as the Confederated Tribes of the Siletz Reservation) and the Confederated Tribes of the Grand Ronde Community of Oregon that this notice has been published.

Dated: October 1, 2018.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2018–22585 Filed 10–16–18; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0026534; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: California Department of Parks and Recreation, Sacramento, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The California Department of Parks and Recreation has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and associated funerary objects and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the California Department of Parks and Recreation. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the California Department of Parks and Recreation at the address in this notice by November 16, 2018.

ADDRESSES: Leslie Hartzell, Ph.D., NAGPRA Coordinator, Cultural Resources Division Chief, California State Parks, P.O. Box 942896, Sacramento, CA 94296–0001, telephone (916) 653–9946, email *leslie.hartzell@parks.ca.gov.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the California Department of Parks and Recreation, Sacramento, CA. The human remains and associated funerary objects were removed from Mitchell Caverns (CA–SBR–117), San Bernardino, CA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the California Department of Parks and Recreation professional staff in consultation with representatives of the Chemehuevi Indian Tribe of the Chemehuevi Reservation, California and the Twenty-Nine Palms Band of Mission Indians of California.

The Colorado River Indian Tribes of the Colorado River Indian Reservation, Arizona and California, and the Fort Mojave Indian Tribe of Arizona, California, & Nevada were invited to consult but did not participate.

History and Description of the Remains

In 1968, human remains representing, at minimum, one individual were removed from Mitchell Caverns (CA–SBR–117) in San Bernardino, CA. The human remains were uncovered during a construction project in El Pakiva cave, and were collected by Park Supervisor Frank L. Fairchild. The human remains were sent from Mitchell Caverns State Reserve to the California Department of Parks and Recreation headquarters in Sacramento, CA on May 29, 1968, where they were cataloged. The human remains consist of a mandible of a juvenile, aged 8–9 years. No known individuals were identified. The 10 associated funerary objects are: One sheep scapula, one bone needle, two bone awls, two bone tools, two bifaces, one abalone shell, and one lot of acorn fragments.

It is estimated that El Pakiva cave was used from A.D. 500 until historic contact. There is no known date for the human remains removed from the cave. The cave's geographic affiliation and archeological context are consistent with the historically documented Chemehuevi. Archeological and linguistic evidence suggest the ancestral Chemehuevi were present in the area by A.D. 1000 to 1200, and perhaps even earlier. Based on consultation with the Tribes of the region and the historic circumstances of the relationship between the historic Chemehuevi and Mojave peoples, the California Department of Parks and Recreation Committee on Repatriation determined

that there is a relationship of shared group identity which can be reasonably traced between these Native American human remains and the Chemehuevi Indian Tribe of the Chemehuevi Reservation, California; Colorado River Indian Tribes of the Colorado River Indian Reservation, Arizona and California; Fort Mojave Indian Tribe of Arizona, California & Nevada; and the Twenty-Nine Palms Band of Mission Indians of California, hereafter referred to as ''The Tribes.''

Determinations Made by the California Department of Parks and Recreation

Officials of the California Department of Parks and Recreation have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 10 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and The Tribes.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Leslie Hartzell, Ph.D., NAGPRA Coordinator, Cultural Resources Division Chief, California State Parks, P.O. Box 942896, Sacramento, CA 94296–0001, telephone (916) 653–9946, email *leslie.hartzell@parks.ca.gov,* by November 16, 2018. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to The Tribes may proceed.

The California Department of Parks and Recreation is responsible for notifying The Tribes that this notice has been published.

Dated: September 19, 2018.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2018–22590 Filed 10–16–18; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0026436; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Sternberg Museum of Natural History, Hays, KS

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Sternberg Museum of Natural History has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and associated funerary objects and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the Sternberg Museum of Natural History. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the Sternberg Museum of Natural History at the address in this notice by November 16, 2018.

ADDRESSES: Dr. Laura E. Wilson, Sternberg Museum of Natural History, 3000 Sternberg Drive, Hays, KS 67601, telephone (785) 639–6192, email *lewilson6@fhsu.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the Sternberg Museum of Natural History, Hays, KS. The human remains and associated funerary objects were removed from Nogales, Santa Cruz County, AZ.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Sternberg Museum of Natural History professional staff in consultation with representatives of Tohono O'odham Nation of Arizona.

History and Description of the Remains

In 1928, human remains representing, at minimum, two individuals were removed from Nogales, in Santa Cruz County, AZ. Two ollas, each of which contained the cremated remains of one individual, were uncovered during an operation to lower and pave a street. The two ollas were donated by Mr. James W. Haddock of Nogales High School in 1929. No known individuals were identified.

According to a letter from Mr. Haddock, Dr. Dean Cummings of the University of Arizona supervised the excavation of the ollas. Dr. Cummings identified the ollas as belonging to the ''Pithouse Indians and about 2000 years old.'' Mr. Peter Steere, Tribal Historic Preservation Officer for the Tohono O'odham Nation Cultural Center & Museum, identified the ollas as Hohokam plain ware vessels that date to A.D. 1000–1400. The Hohokam are regarded as the ancestors of the Tohono O'odham, and the Nogales area of Southern Arizona is within the geographic area covered by the Tohono O'odham Nation under NAGPRA repatriation.

Determinations Made by the Sternberg Museum of Natural History

Officials of the Sternberg Museum of Natural History have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of two individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the two objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects

and the Tohono O'odham Nation of Arizona.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Dr. Laura E. Wilson, Sternberg Museum of Natural History, 3000 Sternberg Drive, Hays, KS 67601, telephone (785) 639–6192, email *lewilson6@fhsu.edu,* by November 16, 2018. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to the Tohono O'odham Nation of Arizona may proceed.

The Sternberg Museum of Natural History is responsible for notifying the Tohono O'odham Nation of Arizona that this notice has been published.

Dated: September 6, 2018.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2018–22587 Filed 10–16–18; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0026496; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: Arizona State Museum, University of Arizona, Tucson, AZ; Correction

AGENCY: National Park Service, Interior.

ACTION: Notice; correction.

SUMMARY: The Arizona State Museum, University of Arizona has corrected a Notice of Intent To Repatriate published in the **Federal Register** on September 10, 2014. This notice corrects the number of unassociated funerary objects. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request to the Arizona State Museum, University of Arizona. If no additional claimants come forward, transfer of control of the cultural items to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to the Arizona State Museum, University of Arizona at the address in this notice by November 16, 2018.

ADDRESSES: Claire S. Barker, Repatriation Coordinator, P.O. Box 210026, Arizona State Museum, University of Arizona, Tucson, AZ 85721, telephone (520) 626–0320, email *csbarker@email.arizona.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items under the control of the Arizona State Museum, University of Arizona, Tucson, AZ, that meet the definition of unassociated funerary objects under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural items. The National Park Service is not responsible for the determinations in this notice.

This notice corrects the number of unassociated funerary objects published in a Notice of Intent To Repatriate in the **Federal Register** (79 FR 53775–53777, September 10, 2014). The number of unassociated funerary objects increased due to a search through uncatalogued object collections. Transfer of control of the items in this correction notice has not occurred.

Correction

In the **Federal Register** (79 FR 53775, September 10, 2014), column 3, paragraph 1, sentence 1 is corrected by substituting the following sentence:

In 1969 and in 1988–1989, 337 cultural objects were removed from Rabid Ruin AZ AA:12:46(ASM), Pima County, AZ.

In the **Federal Register** (79 FR 53775–53777, September 10, 2014), column 3, paragraph 1, sentence 6 is corrected by substituting the following sentence:

The 337 unassociated funerary objects are one lot of animal bone, two lots of botanical material, one ceramic bowl, one ceramic jar fragment, one ceramic pitcher, 307 ceramic sherds, eight chipped stones, two shells, one shell artifact, one lot of shell and stone beads, three lots of shell beads, one lot of stone beads, one stone cylinder, five stone projectile points, one lot of textile fragments, and one turquoise pendant.

In the **Federal Register** (79 FR 53777, September 10, 2014), column 1, paragraph 1, sentence 1 is corrected by substituting the following sentence:

Pursuant to 25 U.S.C. 3001(3)(B), the 2,191 cultural items described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to Claire S. Barker, Repatriation Coordinator, P.O. Box 210026, Arizona State Museum, University of Arizona, Tucson, AZ 85721, telephone (520) 626–0320, email *csbarker@email.arizona.edu,* by November 16, 2018. After that date, if no additional claimants have come forward, transfer of control of the unassociated funerary objects to the Ak-Chin Indian Community (previously listed as the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona); Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and Zuni Tribe of the Zuni Reservation, New Mexico may proceed.

The Arizona State Museum, University of Arizona is responsible for notifying the Ak-Chin Indian Community (previously listed as the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona); Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and Zuni Tribe of the Zuni Reservation, New Mexico that this notice has been published.

Dated: September 14, 2018.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2018–22595 Filed 10–16–18; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0026500; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: Arizona State Parks and Trails, Phoenix, AZ, and Arizona State Museum, University of Arizona, Tucson, AZ

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Arizona State Parks and Trails and the Arizona State Museum, University of Arizona, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, have determined that the cultural item listed in this notice meets the definition of unassociated funerary object. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim this cultural item should submit a written request to the Arizona State Museum. If no additional claimants come forward, transfer of control of the cultural item to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of this cultural item should submit a written request with information in support of the request to the Arizona State Museum at the address in this notice by November 16, 2018.

ADDRESSES: John McClelland, NAGPRA Coordinator, P.O. Box 210026, Arizona State Museum, University of Arizona, Tucson, AZ 85721, telephone (520) 626–2950, email *jmcclell@email.arizona.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate a cultural item under the control of Arizona State Museum, University of Arizona, Tucson, AZ, that meets the definition of an unassociated funerary object under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural item. The National Park Service is not responsible for the determinations in this notice.

History and Description of the Cultural Items

On an unknown date during or prior to 1960, one cultural item was removed by an unknown individual from an unrecorded site, designated AZ CC:2:—Safford Vicinity, located in Graham County, AZ. This object was described as having been removed from an ''Indian burial ground south of Safford, Arizona.'' The item was acquired by the Yuma Territorial Prison on an unknown date. In 1960, collections of the Yuma Territorial Prison were transferred to Arizona State Parks and Trails (ASPT). In December 2000, ASPT transferred the collection to the Arizona State Museum (ASM). The one unassociated funerary object is a ceramic jar. The human remains associated with this object are either missing or were not collected. Based on ceramic analysis, this object likely dates to A.D. 1050–1450, and is associated with the Mogollon culture.

Archeologists describe the earliest settlements in southern Arizona as belonging to the Late Archaic/Early Agricultural horizon. Recent archeological investigations have added support to the hypothesis that the Hohokam cultural tradition arose from the earlier horizon, based on continuities in settlement pattern, architectural technologies, irrigation technologies, subsistence patterns, and material culture. Archeologists have had difficulty dating the beginning of the Hohokam period because the appearance of its distinctive cultural traits, including ceramic technologies and mortuary patterns, was a gradual process spanning several hundred years. This observation adds further support to the hypothesis that the Hohokam tradition evolved in place from earlier Late Archaic traditions. Linguistic evidence furthermore suggests that the Hohokam tradition was multiethnic in nature. Cultural continuity between these prehistoric occupants of Southern Arizona and present-day O'odham peoples is supported by continuities in settlement pattern, architectural technologies, basketry, textiles, ceramic technology, and ritual practices.

Archeologists have also recognized the presence of people associated with the Mogollon tradition in southeastern Arizona. It is thought that their presence represents a migration of people from the mountainous region to the north, where the Mogollon archeological culture was originally defined. Material culture characteristics of Mogollon traditions include a temporal progression from earlier pit houses to later masonry pueblos, villages organized in room blocks of contiguous dwellings associated with plazas, rectangular kivas, polished and paint-decorated ceramics, painted and unpainted corrugated ceramics, red and brown ceramics, inhumation burials, cradleboard cranial deformation, grooved stone axes, and bone artifacts. In southeastern Arizona, there is evidence for both Hohokam and Mogollon traditions, but it is unclear whether this represents separate occupations of different people who interacted and exchanged material culture, or cohabitation and a blending of identities.

Oral traditions that are documented for the Ak-Chin Indian Community (previously listed as the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona); Gila River Indian Community of the Gila River Indian Reservation, Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; and the Tohono O'odham Nation of Arizona support cultural affiliation with Late Archaic/Early Agricultural period and Hohokam sites in southern Arizona.

Oral traditions that are documented for the Hopi Tribe also support cultural affiliation with Late Archaic/Early Agricultural period and Hohokam sites in the region. Several Hopi clans and religious societies are derived from ancestors who migrated from the south, and likely identified with the Hohokam tradition. Oral traditions and archeological evidence also support affiliation of Hopi clans with the Mogollon archeological sites.

Oral traditions of medicine societies and kiva groups of the Zuni Tribe recount migration from distant portions of the Southwest to present day Zuni, and support affiliation with Mogollon, Hohokam, and Late Archaic traditions. Historical linguistic analysis also suggests interaction between ancestral Zuni and Uto-Aztecan speakers during the late Hohokam period.

Determinations Made by the Arizona State Museum (ASM) and Arizona State Parks and Trails (ASPT)

Officials of the ASM and ASPT have determined that:

- Pursuant to 25 U.S.C. 3001(3)(B), the one cultural item described above is reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and is believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced

between the unassociated funerary object and the Ak-Chin Indian Community (previously listed as the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona); Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and the Zuni Tribe of the Zuni Reservation, New Mexico, hereafter referred to as ''The Tribes.''

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim this cultural item should submit a written request with information in support of the claim to John McClelland, NAGPRA Coordinator, P.O. Box 210026, Arizona State Museum, University of Arizona, Tucson, AZ 85721, telephone (520) 626–2950, email *jmcclell@email.arizona.edu,* by November 16, 2018. After that date, if no additional requestors have come forward, transfer of control of the unassociated funerary object to The Tribes may proceed.

The Arizona State Museum is responsible for notifying The Tribes that this notice has been published.

Dated: September 14, 2018.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2018–22599 Filed 10–16–18; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0026501; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: University of California, Davis, Davis, CA, and U.S. Bureau of Reclamation, Mid-Pacific Region, Sacramento, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The University of California, Davis (UC Davis) and U.S. Bureau of Reclamation (Reclamation), Mid-Pacific Region, Sacramento, CA, has completed an inventory of human remains and associated funerary objects in consultation with the appropriate Indian tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and associated funerary objects and present-day Indian tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to UC Davis and Reclamation. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to UC Davis and Reclamation at the addresses in this notice by November 16, 2018.

ADDRESSES: Megon Noble, NAGPRA Project Manager, University of California, Davis, 433 Mrak Hall, One Shields Avenue, Davis, CA 95616, telephone (530) 752–8501, email *mnoble@ucdavis.edu,* or Melanie Ryan, NAGPRA Specialist/Physical Anthropologist, Bureau of Reclamation, Mid-Pacific Regional Office, MP–153, 2800 Cottage Way, Sacramento, CA 95825, telephone (916) 978–5526, email *emryan@usbr.gov.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the UC Davis, Davis, CA and Reclamation, Sacramento, CA. The human remains and associated funerary objects were removed from El Dorado and Placer Counties, CA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by UC Davis and Reclamation professional staff in consultation with the Buena Vista Rancheria of Me-wuk Indians of California; Ione Band of Miwok Indians of California; Jackson Rancheria Band of Miwuk Indians; Shingle Springs Band of Miwok Indians, Shingle Springs Rancheria (Verona Tract), California; and the United Auburn Indian Community of the Auburn Rancheria of California (hereafter ''The Consulted Tribes''). Berry Creek Rancheria of Maidu Indians of California; Enterprise Rancheria of Maidu Indians of California; Greenville Rancheria; Mooretown Rancheria of Maidu Indians of California; Susanville Indian Rancheria; and the Wilton Rancheria were invited to consult and either deferred or did not respond (hereafter ''The Invited Tribes'').

History and Description of the Remains

Between 1966 and 1967, human remains representing, at minimum, four individuals were removed from CA–ELD–90, near the City of Cool, El Dorado County, CA. The site was identified as a prehistoric midden. UC Davis archeologists Jeffrey Childress and Eric Ritter excavated the site under the direction of Dr. Martin Baumhoff and D.L. True as a part of the Auburn Dam Project. The excavation was conducted by the National Park Service on behalf of Reclamation in anticipation of the construction of the Auburn Dam. In 1971 and 1972, Reclamation acquired the land on which the site is situated. Control of the site was disputed for a number of years. In 2016, UC Davis and Reclamation agreed to jointly comply with NAGPRA. Burial 1 is the nearly complete remains of an adult female inhumation. Burials 2, 3, and 4 were disarticulated and disassociated. Burial 2 is possibly the remains of a male. Burial 3 is the incomplete remains of a possible adult cremation. Burial 4 is the remains of a child inhumation. The human remains have been determined to be Native American based on the archaeological context of the site and physiological characteristics of the dentition. The 373 associated funerary objects include: 3 Lots of ash, 34 lots of non-human bones, 3 bone awls, 1 broken cobble, 10 lots of charcoal, 38 cores, 50 lots of debitage, 3 drills, 15 flake knives, 1 hammerstone, 1 piece of historic glass, 1 mano, 1 lot of miscellaneous organic material, 1 miscellaneous steatite artifact, 7 miscellaneous worked stones, 4 miscellaneous mineral fragments, 6 lots of ochre, 1 steatite ornament, 1 pebble, 1 possible retouched flake, 84 lots of possibly unmodified stones, 37 quartz crystals, 1 scraper, 3 shells, 1 shell bead, 6 stones, 1 stone bead, 56 projectile points, and 2 pieces of wood.

Between 1966 and 1967, human remains representing, at minimum, four individuals were removed from CA–

ELD–93, near the City of Cool, El Dorado County, CA. The site was identified as a prehistoric midden. UC Davis archeologists Jeffrey Childress and Eric Ritter excavated the site under the direction of Dr. Martin Baumhoff and D.L. True as a part of the Auburn Dam Project. The excavation was conducted by the National Park Service on behalf of Reclamation in anticipation of the construction of the Auburn Dam. The precise location of CA–ELD–93 is unclear and appears to be unresolvable. Childress and Ritter provide two different site locations. The parcels were purchased by Reclamation in 1967 and 1971. In 2016, UC Davis and Reclamation agreed to jointly comply with NAGPRA. Three of the four burials were found disarticulated and disturbed. Burial 3A was found in a tightly flexed position. Burials all appear to be adult. The human remains have been determined to be Native American based on the archaeological context of the site and physiological characteristics of the dentition. The 469 associated funerary objects include: 3 Bifacial artifacts, 20 lots of non-human bones, 1 bone awl, 4 lots of charcoal, 1 charmstone, 3 cobble tools, 14 cores, 76 lots of debitage, 22 flake knives, 6 flake tools, 2 historic glass fragments, 6 manos, 1 lot of metal, 3 miscellaneous steatite artifacts, 1 miscellaneous worked stone, 3 miscellaneous mineral fragments, 3 lots of nut fragments, 1 piece of obsidian, 3 lots of ochre, 1 steatite ornament, 2 pendants, 3 pestles, 199 lots of possibly unmodified stones, 1 quartz fragment, 13 quartz crystals, 1 scraper, 1 shell, 1 shell bead, 3 pieces of steatite, 9 stones, 60 projectile points, 1 used flake, and 1 piece of wood.

Between 1967 and 1969, human remains representing, at minimum, two individuals were removed from CA–PLA–101, west of Forest Hill in Placer County, CA. The site was identified as a large prehistoric occupation midden. UC Davis archeologists Jeffrey Childress and Eric Ritter excavated the site under the direction of Dr. Martin Baumhoff and D.L. True as a part of the Auburn Dam Project. The excavation was conducted by the National Park Service on behalf of Reclamation in anticipation of the construction of the Auburn Dam. In 2016, UC Davis and Reclamation agreed to jointly comply with NAGPRA. Childress and Ritter did not identify any intact burials during their excavation. Disassociated human remains of a child and cremated remains of an adult were identified within the fauna. The human remains have been determined to be Native American based on the archaeological context of the site. The 166 associated funerary objects include: 1 Bifacial artifact, 6 lots of non-human bones, 1 charmstone, 1 cobble tool, 6 cores, 3 core tools, 21 lots of debitage, 1 flake blade, 9 flake knives, 3 flake tools, 3 hammerstones, 4 manos, 19 millingstones, 3 fragments of miscellaneous ground stone, 2 lots of ochre, 22 projectile points, 1 piece of possible debitage, 1 possible flake, 2 possible manos, 1 possible millingstone, 2 scrapers, 1 possible scraper, 2 quartz crystals, 1 possible unmodified quartz fragment, 39 lots of possibly unmodified stones, 7 lots of seeds, and 4 stones.

At an unknown date, likely between 1966 and 1969, human remains representing, at minimum, one individual were removed from an area described as ''Hawver Cave Dump'' near Cool in El Dorado County, CA. Hawver Cave is recorded as CA–ELD–16. Records for this site are limited and the specific collection location, cannot be confirmed. The area is believed to have been examined by UC Davis archeologists Jeffrey Childress and Bandes as a part of the Auburn Dam Project. The excavation was conducted by the National Park Service on behalf of Reclamation in anticipation of the construction of the Auburn Dam. In 2016, UC Davis and Reclamation agreed to jointly comply with NAGPRA. Hawver Cave was used as a mortuary chamber. Hawver Cave was a limestone cavern that was historically mined. It is unclear where the ''Hawver Cave Dump'' is in relation to the cave. Human remains are limited to a single tooth collected from the surface. No associated funerary objects are present.

All four sites are situated in an area aboriginally occupied by the Nisenan. Ethnographic sources indicate that many aspects of Nisenan and Northern Sierra Miwok mortuary practices were so closely related as to be effectively indistinguishable in the archaeological record. Oral historical evidence provided indicates that these groups occupied the area since time immemorial. Multiple lines of evidence including oral tradition, ethnographic, archaeological, historic, and linguistic, demonstrate continuity and a shared group identity between the human remains and associated funerary objects in this notice and Nisenan and Northern Sierra Miwok tribes. The Buena Vista Rancheria of Me-wuk Indians of California; Ione Band of Miwok Indians of California; Jackson Rancheria Band of Miwuk Indians; Shingle Springs Band of Miwok Indians, Shingle Springs Rancheria (Verona Tract), California; United Auburn Indian Community of the Auburn Rancheria of California; and the Wilton Rancheria (hereafter ''The Affiliated Tribes'') identify as Nisenan and/or Northern Sierra Miwok and are culturally affiliated with the human remains and associated funerary objects in this notice.

Determinations Made by UC Davis and Reclamation

Officials of UC Davis and Reclamation have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 11 individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 1,008 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and The Affiliated Tribes.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Megon Noble, NAGPRA Project Manager, University of California, Davis, 433 Mrak Hall, One Shields Avenue, Davis, CA 95616, telephone (530) 752–8501 email *mnoble@ucdavis.edu,* or Melanie Ryan, NAGPRA Specialist/Physical Anthropologist, Bureau of Reclamation, Mid-Pacific Regional Office, MP–153, 2800 Cottage Way, Sacramento, CA 95825, telephone (916) 978–5526, email *emryan@usbr.gov* by November 16, 2018. After that date, if no additional requestors have come forward, transfer of control of the human remains to The Affiliated Tribes may proceed.

UC Davis and Reclamation are responsible for notifying The Consulted Tribes and The Invited Tribes.

Dated: September 14, 2018.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2018–22601 Filed 10–16–18; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0026499; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: Arizona State Museum, University of Arizona, Tucson, AZ

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Arizona State Museum, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, has determined that the cultural items listed in this notice meet the definition of unassociated funerary objects. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request to the Arizona State Museum. If no additional claimants come forward, transfer of control of the cultural items to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to the Arizona State Museum at the address in this notice by November 16, 2018.

ADDRESSES: John McClelland, NAGPRA Coordinator, P.O. Box 210026, Arizona State Museum, University of Arizona, Tucson, AZ 85721, telephone (520) 626–2950, email *jmcclell@email.arizona.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items under the control of Arizona State Museum, University of Arizona, Tucson, AZ, that meet the definition of unassociated funerary objects under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural items. The National Park Service is not responsible for the determinations in this notice.

History and Description of the Cultural Items

On an unknown date prior to 2008, one cultural item was removed from an unrecorded site, designated AZ AA Alice Carpenter, reportedly located in Oracle, Pinal County, AZ. The item was collected by unknown individuals. This cultural item was received and accessioned by the Arizona State Museum (ASM) in 2008. The one unassociated funerary object is a ceramic bowl. The bag in which this cultural item was found notes that this object was from a cremation cache. The human remains once associated with this object were not received by ASM. Based on ceramic typology, this object was likely produced during the Classic Period of the Hohokam cultural sequence, between A.D. 1150–1300.

In 1934, one cultural item was removed by a private citizen from an unrecorded site, designated AZ AA:1:—, located north of the Casa Grande area in Pinal County, AZ. This cultural item was received by ASM at an unknown date and later assigned an accession number. The one unassociated funerary object is a textile fragment. The human remains once associated with this object are not present, and there are no records indicating that they were ever received by ASM. Based on the style of the textile fragment, this object is consistent with a Hohokam cultural affiliation, and was likely produced during the Hohokam Classic period, A.D. 1200–1450.

On an unspecified date, one cultural item was removed from an unrecorded site, designated AZ AA:11:—, located southeast of the Casa Grande area, in either Pinal or Pima County, AZ. This cultural item was reportedly associated with burials that were exposed by erosion of a river bank. It was removed by an unknown individual and received by ASM on an unknown date. The one unassociated funerary object is a ceramic jar, identified as Gila Plain of the Tucson Variety. The human remains once associated with this object are not present and there are no records indicating that they were ever received by ASM. On the basis of ceramic typology, this object was likely produced around A.D. 450–1450, during the Hohokam cultural sequence.

In 1930, seven cultural items were removed from site AZ AA:3:17(ASM) located near the Tom Mix Wash in the Salt-Gila Basin, in Pinal County, AZ. The legally authorized excavations were conducted by the Gila Pueblo Foundation. Gila Pueblo Foundation collections were transferred to ASM in December 1950 when the Gila Pueblo Foundation closed. The seven unassociated funerary objects are one ceramic bowl, one mano, one polishing stone, one shell fragment, one stone cylinder, and two tabular stone knives. The human remains once associated with these objects are not present and there are no records indicating that they were ever received by ASM. The cultural items likely date to the Hohokam Classic period, A.D. 1150–1450, based on ceramics and architectural features reported at the site.

On an unknown date during or prior to 1942, one cultural item was removed from an unrecorded site, designated AZ AA:6:—, located in the Sawtooth Mountains, in Pinal County, AZ. This object was donated to ASM by Mrs. Paul Stein in 1942. The one unassociated funerary object is a ceramic jar, described as a cremation urn. The human remains once associated with this object are not present and there are no records indicating that they were ever received by ASM. The ceramic jar is identified as Gila Plain, an identification consistent with a Hohokam affiliation. Gila Plain was produced between A.D. 200 and 1450, which encompasses the Hohokam sequence.

In 1965, one cultural item was removed by an unknown individual from site, AZ BB:2:10(ASM) located on Arizona State Trust land east of the San Pedro River in Pinal County, AZ. This collection was donated by Alice Carpenter to ASM in 1965. The one unassociated funerary object is a ceramic figurine. The item was recorded as having been found near an unspecified burial. The human remains once associated with this object are not present and there are no records indicating that they were ever received by ASM. Site AZ BB:2:10(ASM) is described as having two compounds, two platform mounds, a trash mound, and a linear rock alignment. The site likely dates to the Hohokam Classic period, A.D. 1200–1450, based on architecture and ceramic typology. Based on analysis of the material culture observed at this site, this site is culturally affiliated with Salado and Hohokam groups.

Between 1977 and 1979 two cultural items were removed from site AZ BB:2:19(ASM), located on private land on the east bank of the San Pedro River in Pinal County, AZ. The site was excavated during the Ash Terrace Field School conducted by the Arizona College of Technology, under the direction of Michael Bartlett. In 1995, the collection was received by ASM. The two unassociated funerary objects

are one ceramic sherd and one fragment of chipped stone. The objects were found in a box containing human remains from more than one burial, and the burial with which they were once associated cannot be determined. This site consists of at least four two-room, noncontiguous structures surrounding a possible plaza area. The site likely dates to A.D. 1250–1450 based on ceramic typology. Based on analysis of material culture observed at the site, this site can be affiliated with the Salado and Hohokam cultural groups.

On an unknown date during or prior to 1952, four cultural objects were removed from an unrecorded site, designated AZ BB:9:—power plant, located near the Santa Cruz River in Pima County, AZ. The items were removed during landscaping activities and were reportedly associated with a cremation. This collection was donated to ASM by C. G. Carrasco in 1952. The four unassociated funerary objects are one ceramic bowl, one ceramic bowl fragment, and two ceramic jars. The human remains once associated with these objects are not present, and there are no records indicating that they were ever received by ASM. Based on ceramic analysis, this site likely dates to the Classic period of the Hohokam cultural sequence, A.D. 1150–1300.

On an unknown date during or prior to 1965, two cultural objects were removed from an unrecorded site, designated AZ BB:9:—Tucson Site 1, located in Pima County, AZ. The items were uncovered during street construction. Before they could be brought to ASM, the items, which reportedly contained human remains, were stolen. Later, the items were returned, but the human remains were no longer present. The items were received by ASM in 1965. The two unassociated funerary objects are two ceramic jars. Based on ceramic analysis, this site dates to the Hohokam cultural sequence, A.D. 450–1450.

On an unknown date during or prior to 1955, one cultural item was removed from an unrecorded site, designated AZ CC:2:—Univ Farm, located near Safford in Graham County, AZ. This cultural item was donated to ASM in 1955 by Mr. Chapman of the University of Arizona Experimental Farm. The one unassociated funerary object is a ceramic jar. The jar reportedly contained cremated human remains. The human remains once associated with this object are not present, and there are no records indicating that they were ever received by ASM. Based on ceramic analysis, this object likely dates to A.D. 500–1400 and is associated with the Mogollon culture.

At an unknown date during or prior to 1960, two cultural items were removed from site AZ DD:4:1(ASM), located in Pima County, AZ. The items were reportedly cremation vessels that had been exposed by erosion. These cultural objects were donated to ASM in 1960 by Sharon Medema. The two unassociated funerary objects are one ceramic bowl and one ceramic jar. The human remains once associated with these objects are not present, and there are no records indicating that they were ever received by ASM. Based on ceramic analysis, these objects date to A.D. 650–1150, and are associated with the Trincheras cultural group. A later survey of this site recorded a large artifact scatter consisting of sherds and stone fragments. No features or mounds were observed.

At an unknown date during or prior to 1967, three cultural items were removed from an unrecorded site, designated AZ DD:8:—Guest Site, located in a wash near the Santa Cruz River in Santa Cruz County, AZ. The cultural items were collected by Marguerite Guest. She donated the collection to ASM in 1967. The three unassociated funerary objects are ceramic jars. The items were recorded as having been found in the vicinity of cremations, but it is not possible to attribute them to specific burials. Based on ceramic analysis, this site likely dates to the Sedentary Period of the Hohokam cultural sequence, A.D. 950–1150.

In 1965, 28 cultural items were removed from site AZ DD:8:12(ASM), located on private land in Santa Cruz County, AZ. The items were collected as part of an archeological salvage excavation carried out prior to the construction of Interstate Highway 19 by the ASM Highway Salvage Project, under the direction of James V. Sciscenti. This collection was received by ASM in 1965. The 28 unassociated funerary objects are: One bone awl, four ceramic bowls, one ceramic jar, one ceramic sherd, two spindle whorls, one fragment of daub, two manos, eight polishing stones, one lot of shell and stone beads, one lot of shell beads, two shell bracelets, three stone projectile points, and one stone projectile point fragment. The human remains once associated with these items are not present, and there are no records indicating that they were ever received by ASM. Site AZ DD:8:12(ASM) is a large, multi-component village site with Colonial, Sedentary, and Classic period Hohokam components (A.D. 850–1450), followed by a Protohistoric period Upper Pima component (A.D. 1550–ca 1700). These dates and cultural affiliations are based on the material culture observed at this site. With the exception of one burial, which may date from the Classic Period of the Hohokam cultural sequence, A.D. 1150–1450, all the burials excavated by the 1965 ASM salvage project are attributed to the Upper Pima component, A.D. 1550–ca 1700. Therefore, these unassociated funerary objects likely also date to this period.

Around 1929, one cultural item was removed from an unrecorded site, designated AZ EE:—Sonoita Creek, located near Patagonia in Pima County, AZ. This cultural item was collected by the Arizona State Highway Department and was received by ASM sometime after 1929. The one unassociated funerary object is a ceramic bowl. The human remains once associated with this item are not present, and there are no records indicating that they were ever received by ASM. Based on ceramic analysis, this unassociated funerary object dates to A.D. 450–1450, which encompasses the Hohokam cultural sequence.

In 1916, two cultural items were removed from an unrecorded site, designated AZ EE:1:—Continental Plantation, located south of Tucson in Santa Cruz County, AZ. These cultural items were donated to ASM by Professor Stanley F. Morse during or after 1916. The two unassociated funerary objects are ceramic jars. The objects were reportedly once associated with human cremations. The human remains once associated with these items are not present, and there are no records indicating that they were ever received by ASM. Based on ceramic analysis, these unassociated funerary objects date to A.D. 450–1450, which encompasses the Hohokam cultural sequence.

In the years 1954–1957, two cultural items were removed from site AZ EE:2:10(ASM), located in the Empire Valley in Pima County, AZ. The site was originally explored in 1954 and 1955 by the University of Arizona, under the direction of Emil W. Haury, and was excavated in 1957 by the University of Arizona, under the direction of Frank Eddy. These objects were received by ASM in 1958. The two unassociated funerary objects are ceramic jars. The human remains once associated with these items are not present, and there are no records indicating that they were ever received by ASM. This site contains one pit house and two trash zone deposits, layered one on top of the other. Based on ceramic evidence, these unassociated funerary objects date to A.D. 950–1150, during the Sedentary Period of the Hohokam cultural sequence.

In 1978, 107 cultural items were removed from site AZ EE:9:67(ASM), located on land owned by St. Andrew's Church on Nogales Wash in Santa Cruz County, AZ. These objects were removed by construction workers and archeologists from ASM while a sewer line was being constructed. These objects were received by ASM during or after 1978. The 107 unassociated funerary objects are: Five fragments of animal bone, three bone hair pin fragments, one bone awl, 65 ceramic sherds, 32 fragments of chipped stone, and one ground stone fragment. The human remains associated with these objects are either missing or were not collected. This site consists of a dense sherd and lithic scatter; three pit houses were also noted. Based on ceramic evidence observed at this site, these unassociated funerary objects date to A.D. 950–1300, during the Sedentary and Classic Periods of the Hohokam cultural sequence.

In 1928, 17 cultural items were removed from site AZ EE:9:68(ASM), located on City of Nogales property in Santa Cruz County, AZ. The items were likely removed during a University of Arizona expedition and received by the Arizona State Museum in the same year. The 17 unassociated funerary items are: Four ceramic bowls, 12 ceramic jars, and one ceramic plate.

In 1969, 124 cultural items were removed from the same site AZ EE:9:68(ASM) during the construction of Interstate Highway 19. The emergency salvage excavations were conducted by ASM under the direction of Laurens Hammack. This collection was received by ASM in 1976. The 124 unassociated funerary objects are: One incised bone fragment, two ceramic jars, and 121 ceramic sherds. The human remains associated with these objects are either missing or were not collected. Because this site was excavated during emergency salvage excavations, few details regarding archeological context are known. Based on ceramic evidence, these objects likely date to A.D. 850–950, during the Colonial Period, and are culturally affiliated with Hohokam and Trincheras cultural groups.

In 1962, 12 cultural items were removed from site AZ FF:3:8(ASM), located on private land in the Turkey Creek drainage in Cochise County, AZ. This collection was brought to ASM in 1963. The 12 unassociated funerary objects are: One bone artifact, two bone awls, one ceramic bowl fragment, one ceramic disk, one crystal, three lots of shell beads, one turquoise fragment, one turquoise pendant, and one turquoise tessera. The human remains once associated with these items are not present, and there are no records indicating that they were ever received by ASM. Site AZ FF:3:8(ASM) is a small, adobe-walled Mogollon village composed of two room blocks enclosing a plaza. Based on ceramic typology, these objects likely date to A.D. 1250–1325, and are affiliated with Mogollon cultural groups.

In 1893, one cultural item was removed by an unknown individual from an unrecorded site, designated AZ San Pedro River, located in Pinal, Pima, or Cochise County, AZ. The cultural item reportedly contained cremated human remains when it was discovered. The item was received by ASM at an unknown date. The one unassociated funerary object is a ceramic jar. The human remains once associated with these items are not present, and there are no records indicating that they were ever received by ASM. Based on ceramic typology, this object likely dates to A.D. 450–1450, which encompasses the Hohokam cultural sequence.

In 1959, three cultural items were removed from site AZ Z:2:1(ASM), located in the Gila Bend area of Maricopa County, AZ. Collections from this site were removed over the course of archeological excavations carried out by ASM for the Painted Rocks Reservoir Project, under the direction of William W. Wasley and Alfred E. Johnson. These collections were received by ASM in 1959. The three unassociated funerary objects are one ceramic jar, one shell, and one stone bowl. The human remains once associated with these items are not present, and there are no records indicating that they were ever received by ASM. This site is a large Hohokam settlement occupied during the Colonial and Sedentary periods, consisting of a house mound or platform mound, several trash mounds, 2 ball courts, and a prehistoric canal. Based on site dates, these objects date to A.D. 750–1150.

Archeologists describe the earliest settlements in southern Arizona as belonging to the Late Archaic/Early Agricultural horizon. Recent archeological investigations have added support to the hypothesis that the Hohokam cultural tradition arose from the earlier horizon, based on continuities in settlement pattern, architectural technologies, irrigation technologies, subsistence patterns, and material culture. Archeologists have had difficulty dating the beginning of the Hohokam period because the appearance of its distinctive cultural traits, including ceramic technologies and mortuary patterns, was a gradual process spanning several hundred years. This observation adds further support to the hypothesis that the Hohokam tradition evolved in place from earlier Late Archaic traditions. Linguistic evidence furthermore suggests that the Hohokam tradition was multiethnic in nature. Cultural continuity between these prehistoric occupants of Southern Arizona and present-day O'odham peoples is supported by continuities in settlement pattern, architectural technologies, basketry, textiles, ceramic technology, and ritual practices.

Archeologists have also recognized the presence of people associated with the Mogollon tradition in southeastern Arizona. Their presence there is thought to represent a migration of people from the mountainous region to the north, where the Mogollon archeological culture was originally defined. Material culture characteristics of Mogollon traditions include a temporal progression from earlier pit houses to later masonry pueblos, villages organized in room blocks of contiguous dwellings associated with plazas, rectangular kivas, polished and paint-decorated ceramics, painted and unpainted corrugated ceramics, red and brown ceramics, inhumation burials, cradleboard cranial deformation, grooved stone axes, and bone artifacts. In southeastern Arizona, there is evidence for both Hohokam and Mogollon traditions, but it is unclear whether this represents separate occupations of different people who interacted and exchanged material culture, or cohabitation and a blending of identities.

Oral traditions that are documented for the Ak-Chin Indian Community (previously listed as the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona); Gila River Indian Community of the Gila River Indian Reservation, Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; and the Tohono O'odham Nation of Arizona support cultural affiliation with Late Archaic/Early Agricultural period and Hohokam sites in southern Arizona.

Oral traditions that are documented for the Hopi Tribe also support cultural affiliation with Late Archaic/Early Agricultural period and Hohokam sites in the region. Several Hopi clans and religious societies are derived from ancestors who migrated from the south and likely identified with the Hohokam tradition. Oral traditions and archeological evidence also support affiliation of Hopi clans with the Mogollon archeological sites.

Oral traditions of medicine societies and kiva groups of the Zuni Tribe recount migration from distant portions

of the Southwest to present day Zuni, and supports affiliation with Mogollon, Hohokam, and Late Archaic traditions. Historical linguistic analysis also suggests interaction between ancestral Zuni and Uto-Aztecan speakers during the late Hohokam period.

Determinations Made by the Arizona State Museum

Officials of the Arizona State Museum have determined that:

• Pursuant to 25 U.S.C. 3001(3)(B), the 323 cultural items described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual.

• Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the unassociated funerary objects and the Ak-Chin Indian Community (previously listed as the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona); Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and the Zuni Tribe of the Zuni Reservation, New Mexico, hereafter referred to as ''The Tribes.''

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these cultural items should submit a written request with information in support of the request to John McClelland, NAGPRA Coordinator, P.O. Box 210026, Arizona State Museum, University of Arizona, Tucson, AZ 85721, telephone (520) 626–2950, email *jmcclell@email.arizona.edu,* by November 16,
2018. After that date, if no additional requestors have come forward, transfer of control of the unassociated funerary objects to The Tribes may proceed.

The Arizona State Museum is responsible for notifying The Tribes that this notice has been published.

Dated: September 14, 2018.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2018–22598 Filed 10–16–18; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0026596; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Princeton University, Princeton, NJ

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: Princeton University has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and associated funerary objects and any present-day Indian Tribes or Native Hawaiian organizations. Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to Princeton University. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the Indian Tribes or Native Hawaiian organizations stated in this notice may proceed.

DATES: Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Princeton University at the address in this notice by November 16, 2018.

ADDRESSES: Bryan R. Just, Princeton University Art Museum, Princeton, NJ 08544, telephone (609) 258–8805, email *bjust@princeton.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of Princeton University, Princeton, NJ. The human remains and associated funerary objects were removed 30 miles north of Nogales, Santa Cruz County, AZ.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by Princeton University professional staff in consultation with representatives of the Ak-Chin Indian Community (previously listed as the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona); Gila River Indian Community of the Gila River Indian Reservation, Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; San Carlos Apache Tribe of the San Carlos Reservation, Arizona; Tohono O'odham Nation of Arizona; Tonto Apache Tribe of Arizona; White Mountain Apache Tribe of the Fort Apache Reservation, Arizona; and the Yavapai-Apache Nation of the Camp Verde Indian Reservation, Arizona, hereafter referred to as ''The Tribes.''

History and Description of the Remains

At an unknown date, human remains representing, at minimum, one individual were removed from an unknown site about 30 miles north of Nogales, Pima (now Santa Cruz) County, AZ. The human remains are cremated and in fragmentary form. They were found with a wooden cross placed on top, suggesting the burial took place after the Spanish Invasion. The human remains were unearthed along with six other ollas of varied shapes, whose present whereabouts are unknown. The human remains were donated to Princeton University by John I. Ginn in 1892. No known individuals were identified. The one associated funerary object is a ''cremation'' olla.

Determinations Made by Princeton University

Officials of Princeton University have determined that:

• Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on the nature of the burial as a cremation in a ceramic jar.

• Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of one individual of Native American ancestry.

• Pursuant to 25 U.S.C. 3001(3)(A), the one object described in this notice is reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.

• Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity

cannot be reasonably traced between the Native American human remains and associated funerary object and any present-day Indian Tribe.

- According to final judgments of the Indian Claims Commission or the Court of Federal Claims, the land from which the Native American human remains and associated funerary objects were removed is the aboriginal land of the Tohono O'odham Nation of Arizona.
- Treaties, Acts of Congress, or Executive Orders, indicate that the land from which the Native American human remains and associated funerary objects were removed is the aboriginal land of The Tribes.
- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains and associated funerary object may be to The Tribes.

Additional Requestors and Disposition

Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary object should submit a written request with information in support of the request to Bryan R. Just, Princeton University Art Museum, Princeton, NJ 08544, telephone (609) 258–8805, email *bjust@princeton.edu,* by November 16, 2018. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary object to The Tribes may proceed.

Princeton University is responsible for notifying The Tribes that this notice has been published.

Dated: October 1, 2018.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2018–22602 Filed 10–16–18; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0026557; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: U.S. Department of Defense, Army Corps of Engineers, Nashville District, Nashville, TN; Correction

AGENCY: National Park Service, Interior.

ACTION: Notice; correction.

SUMMARY: The U.S. Army Corps of Engineers, Nashville District (USACE), has corrected an inventory of human remains and associated funerary objects, published in a Notice of Inventory Completion in the **Federal Register** on August 8, 2017. This notice corrects the minimum number of individuals and the number of associated funerary objects.

ADDRESSES: Dr. Valerie McCormack, Archeologist, Department of Defense, Nashville District, Corps of Engineers, U.S. Army Corps of Engineers, Nashville District, 110 9th Avenue South, Room A–405, Nashville, TN 37203, telephone (615) 736–7847, email *valerie.j.mccormack@usace.army.mil.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the correction of an inventory of human remains and associated funerary objects under the control of the U.S. Army Corps of Engineers, Nashville District, Nashville, TN. The human remains and associated funerary objects were removed from Lyon County, KY.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

This notice corrects the minimum number of individuals and number of associated funerary objects published in a Notice of Inventory Completion in the **Federal Register** (82 FR 37108, August 8, 2017). A re-inventory of the collection was unable to locate one of the associated funerary objects listed in the earlier notice, but did locate additional human remains and associated funerary objects.

Correction

In the **Federal Register** (82 FR 37108, August 8, 2017), column 2, paragraph 3, sentence 1 is corrected by substituting the following sentence:

In 1959, human remains representing, at minimum, 132 individuals were removed from the Tinsley Hill Cemetery site (15LY18b).

In the **Federal Register** (82 FR 37108, August 8, 2017), column 2, paragraph 3, sentence 2 is corrected by substituting the following sentence:

The remains include 21 adult males, five adult probable males, 20 adult females, six adult probable females, 30 adults of indeterminate sex, 29 subadults, 20 infants, and one individual of indeterminate age and sex.

In the **Federal Register** (82 FR 37108, August 8, 2017), column 2, paragraph 3, sentence 4 is corrected by substituting the following sentence:

The 540 associated funerary objects are 323 pottery sherds, five burned clay, two projectile points, 11 chipped stone tool fragments, two stone drill fragments, two stone cores, one stone celt, one flint chisel, one fluorspar pendant, 38 debitage, two quartz, one sandstone, 24 UID stones, 21 cannel coal, one splinter bone awl, one worked antler tip, two deer teeth, one elk tooth, 16 UID bones, nine pieces of shell, 17 shells, nine pieces of charcoal, one mica, three red ochre, three crinoids, one fossil coral, one soil sample, 19 iron nails, five pieces of iron, one metal carpet tack, two plastic buttons, 12 ceramics, one brown glass, and one lead.

In the **Federal Register** (82 FR 37108, August 8, 2017), column 2, paragraph 4, sentence 8 is corrected by substituting the following sentence:

The eight associated funerary objects are four pottery sherds, one broken antler tip drilled lengthwise through the base, and three faunal fragments.

In the **Federal Register** (82 FR 37108, August 8, 2017), column 3, paragraph 3, sentence 2 is corrected by substituting the following sentence:

Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 141 individuals of Native American ancestry.

In the **Federal Register** (82 FR 37108, August 8, 2017), column 3, paragraph 3, sentence 3 is corrected by substituting the following sentence:

Pursuant to 25 U.S.C. 3001(3)(A), the 548 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.

Additional Requestors and Disposition

For questions related to this notice, contact Dr. Valerie McCormack, Archeologist, Department of Defense, Nashville District, Corps of Engineers, U.S. Army Corps of Engineers, Nashville District, 110 9th Avenue South, Room A–405, Nashville, TN 37203, telephone (615) 736–7847, email *valerie.j.mccormack@usace.army.mil.*

The U.S. Army Corps of Engineers, Nashville District, is responsible for notifying the Cherokee Nation; Eastern Band of the Cherokee Indians; and the United Keetoowah Band of Cherokee Indians in Oklahoma that this notice has been published.

Dated: September 20, 2018.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2018–22586 Filed 10–16–18; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0026580; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Carter County Museum, Ekalaka, MT

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Carter County Museum has completed an inventory of human remains, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to the Carter County Museum. If no additional requestors come forward, transfer of control of the human remains to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to the Carter County Museum at the address in this notice by November 16, 2018.

ADDRESSES: Sabre Moore, Carter County Museum, 306 North Main Street, Ekalaka, MT 59324, telephone (406) 775–6886, email *smoore@cartercountymuseum.org.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of the Carter County Museum, Ekalaka, MT. The human remains were removed from an unknown site in the Mohawk Mountains, 80 miles southwest of Yuma, AZ.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Carter County Museum professional staff in consultation with representatives of the Quechan Tribe of the Fort Yuma Indian Reservation, California & Arizona.

History and Description of the Remains

In 1947, human remains—a skull—representing, at minimum, one individual were removed from the Mohawk Mountains, Yuma County, AZ, by Walter H. Peck, Carter County Museum Director. Peck's notes indicate that the skull (catalog number CCM V–43–2–5089) was found amongst numerous other skulls between the 50 and 60-foot level of a mineshaft located at the foot of a mountain, near a trail established by Spanish explorers. No known individuals were identified. No associated funerary objects are present.

Based on Peck's notes, this individual was a Yuma slave forced to work in the mine by the Spanish. The Spanish were first reported to be mining silver in the region in 1736, but were hampered by Apache guerillas. In 1853, the United States purchased the region from Spain. The present day descendants of the Yuma people are the Quechan Tribe of the Fort Yuma Indian Reservation, California & Arizona.

Determinations Made by the Carter County Museum

Officials of the Carter County Museum have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Quechan Tribe of the Fort Yuma Indian Reservation, California & Arizona.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Sabre Moore, Carter County Museum, 306 North Main Street, Ekalaka, MT 59324, telephone (406) 775–6886, email *smoore@cartercountymuseum.org,* by November 16, 2018. After that date, if no additional requestors have come forward, transfer of control of the human remains to the Quechan Tribe of the Fort Yuma Indian Reservation, California & Arizona may proceed.

The Carter County Museum is responsible for notifying the Quechan Tribe of the Fort Yuma Indian Reservation, California & Arizona that this notice has been published.

Dated: October 1, 2018.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2018–22589 Filed 10–16–18; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0026437; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: Sternberg Museum of Natural History, Hays, KS

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Sternberg Museum of Natural History, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, has determined that the cultural item listed in this notice meets the definition of an unassociated funerary object. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim this cultural item should submit a written request to the Sternberg Museum of Natural History. If no additional claimants come forward, transfer of control of the cultural items to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim this cultural item should submit a written request with information in support of the claim to the Sternberg Museum of Natural History at the address in this notice by November 16, 2018.

ADDRESSES: Dr. Laura E. Wilson, Sternberg Museum of Natural History, 3000 Sternberg Drive, Hays, KS 67601, telephone (785) 639–6192, email *lewilson6@fhsu.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate a cultural item under the control of the Sternberg Museum of Natural History, Hays, KS, that meets the definition of an unassociated funerary object under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural item. The National Park Service is not responsible for the determinations in this notice.

History and Description of the Cultural Item

In 1928, one cultural item was removed from Nogales in Santa Cruz County, AZ. One empty olla, identified as a Hohokam plain ware vessel, was uncovered during an operation to lower and pave a street. It was donated by Mr. James W. Haddock of Nogales High School in 1929.

Mr. Peter Steere, Tribal Historic Preservation Officer for the Tohono O'odham Nation, identified the olla as a Hohokam plain ware vessel that dates to A.D. 1000–1400. The Hohokam are regarded as the ancestors of the Tohono O'odham Nation, and the Nogales area of Southern Arizona is within the geographic area covered by the Tohono O'odham Nation under NAGPRA repatriation.

Determinations Made by the Sternberg Museum of Natural History

Officials of the Sternberg Museum of Natural History have determined that*:*

- Pursuant to 25 U.S.C. 3001(3)(B), the one cultural item described above is reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and is believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the unassociated funerary object and the Tohono O'odham Nation of Arizona.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim this cultural item should submit a written request with information in support of the claim to Dr. Laura E. Wilson, Sternberg Museum of Natural History, 3000 Sternberg Drive, Hays, KS 67601, telephone (785) 639–6192, email *lewilson6@fhsu.edu,* by November 16, 2018. After that date, if no additional claimants have come forward, transfer of control of the unassociated funerary object to the Tohono O'odham Nation of Arizona may proceed.

The Sternberg Museum of Natural History is responsible for notifying the Tohono O'odham Nation of Arizona that this notice has been published.

Dated: September 6, 2018.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2018–22588 Filed 10–16–18; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA—NPS0026495; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Arizona State Museum, University of Arizona, Tucson, AZ

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Arizona State Museum, University of Arizona, has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and associated funerary objects and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the Arizona State Museum, University of Arizona. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the Arizona State Museum, University of Arizona at the address in this notice by November 16, 2018.

ADDRESSES: Claire S. Barker, Repatriation Coordinator, P.O. Box 210026, Arizona State Museum, University of Arizona, Tucson, AZ 85721, telephone (520) 626–0320, email *csbarker@email.arizona.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the Arizona State Museum (ASM), University of Arizona, Tucson, AZ. The human remains and associated funerary objects were removed from Pima County, AZ.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the ASM professional staff in consultation with representatives of the Ak-Chin Indian Community (previously listed as the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona); Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and the Zuni Tribe of the Zuni Reservation, New Mexico, hereafter referred to as ''The Tribes.''

History and Description of the Remains

In 1953, human remains representing, at minimum, two individuals were removed from an unrecorded site, designated AZ BB:14:—Rincon in Pima County, AZ, by Ray Robinson, a private citizen. This site is located in a cave in the Rincon Mountains in the eastern Tucson Basin. This collection was received by ASM in April 2017. No known individuals were identified. The 49 associated funerary objects are: Four lots of animal bone, two antler fragments, one lot of beads, one bone awl, two lots of botanical material, three lots of ceramic sherds, seven lots of chipped stone, one chipped stone projectile point preform, two lots of cordage, one digging stick, one fire drill base, one fossilized animal bone, one lot of human hair and textiles, one human hair bundle, one lithic core, one lot of matting fragments, six sandals, one lot of sandal fragments, one shell pendant, one lot of soil and plant material, two lots of stone, one lot of tabular knife fragments, three lots of textiles, one

wooden staff, and three lots of wooden sticks. Based on the artifacts associated with these remains and the geographic location of discovery, these human remains likely date to A.D. 500–1450, which encompasses the Hohokam cultural sequence.

Archeologists describe the earliest settlements in Southern Arizona as belonging to the Late Archaic/Early Agricultural horizon. Recent archeological investigations have added support to the hypothesis that the Hohokam cultural tradition arose from the earlier horizon, based on continuities in settlement pattern, architectural technologies, irrigation technologies, subsistence patterns, and material culture. Archeologists have had difficulty dating the beginning of the Hohokam period because the appearance of its distinctive cultural traits, including ceramic technologies and mortuary patterns, was a gradual process spanning several hundred years. This observation adds further support to the hypothesis that the Hohokam tradition evolved in place from earlier Late Archaic traditions. Linguistic evidence furthermore suggests that the Hohokam tradition was multiethnic in nature. Cultural continuity between these prehistoric occupants of Southern Arizona and present-day O'odham peoples is supported by continuities in settlement pattern, architectural technologies, basketry, textiles, ceramic technology, and ritual practices.

Archeologists have also recognized the presence of people associated with the Mogollon tradition in southeastern Arizona. It is thought that their presence represents a migration of people from the mountainous region to the north, where the Mogollon archeological culture was originally defined. Material culture characteristics of Mogollon traditions include a temporal progression from earlier pit houses to later masonry pueblos, villages organized in room blocks of contiguous dwellings associated with plazas, rectangular kivas, polished and paint-decorated ceramics, painted and unpainted corrugated ceramics, red and brown ceramics, inhumation burials, cradleboard cranial deformation, grooved stone axes, and bone artifacts. In southeastern Arizona, there is evidence for both Hohokam and Mogollon traditions, but it is unclear whether this represents separate occupations of different people who interacted and exchanged material culture, or cohabitation and a blending of identities.

Oral traditions that are documented for the Ak-Chin Indian Community (previously listed as the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona); Gila River Indian Community of the Gila River Indian Reservation, Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; and the Tohono O'odham Nation of Arizona support cultural affiliation with Late Archaic/Early Agricultural period and Hohokam sites in southern Arizona.

Oral traditions that are documented for the Hopi Tribe also support cultural affiliation with Late Archaic/Early Agricultural period and Hohokam sites in the region. Several Hopi clans and religious societies are derived from ancestors who migrated from the south and likely identified with the Hohokam tradition. Oral traditions and archeological evidence also support affiliation of Hopi clans with the Mogollon archeological sites.

Oral traditions of medicine societies and kiva groups of the Zuni Tribe recount migration from distant portions of the Southwest to present day Zuni, and support affiliation with Mogollon, Hohokam, and Late Archaic traditions. Historical linguistic analysis also suggests interaction between ancestral Zuni and Uto-Aztecan speakers during the late Hohokam period.

Determinations Made by the Arizona State Museum

Officials of Arizona State Museum have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of two individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 49 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and The Tribes.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Claire S. Barker, Repatriation Coordinator, P.O. Box 210026, Arizona State Museum, University of Arizona, Tucson, AZ 85721, telephone (520) 626–0320, email *csbarker@email.arizona.edu,* by November 16, 2018. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to The Tribes may proceed.

The Arizona State Museum is responsible for notifying The Tribes that this notice has been published.

Dated: September 14, 2018.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2018–22600 Filed 10–16–18; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0026497; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Arizona State Parks and Trails, Phoenix, AZ, and Arizona State Museum, University of Arizona, Tucson, AZ

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Arizona State Parks and Trails and the Arizona State Museum, University of Arizona, have completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and have determined that there is a cultural affiliation between the human remains and associated funerary objects and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the Arizona State Museum, University of Arizona. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the Arizona State Museum at the address in this notice by November 16, 2018.

ADDRESSES: John McClelland, NAGPRA Coordinator, P.O. Box 210026, Arizona State Museum, University of Arizona, Tucson, AZ 85721, telephone (520) 626–2950, email *jmcclell@email.arizona.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the Arizona State Parks and Trails (ASPT), Phoenix, AZ, and in the physical custody of the Arizona State Museum (ASM), University of Arizona, Tucson, AZ. The human remains and associated funerary objects were removed from Santa Cruz and Yuma Counties, AZ.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the ASM professional staff in consultation with representatives of the Ak-Chin Indian Community (previously listed as the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona); Cocopah Tribe of Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Pascua Yaqui Tribe of Arizona; Quechan Tribe of the Fort Yuma Indian Reservation, California & Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and Zuni Tribe of the Zuni Reservation, New Mexico, hereafter referred to as ''The Consulted Tribes.''

History and Description of the Remains

In 1981, human remains representing, at minimum, one individual were removed from site AZ EE:9:91(ASM), located in Patagonia Lake State Park, Santa Cruz County, Arizona. The human remains were collected during a survey project directed by Kurt Dongoske and a testing project conducted by the Cultural Resource Management Division of the ASM under the direction of John Czaplicki. The human remains were brought to ASM and an accession number was assigned in 1990. No known individuals were identified. No associated funerary objects are present. This site is described as a Hohokam village. Based on material culture, the site likely dates to A.D. 950–1300, during the Sedentary and early Classic Periods of the Hohokam cultural sequence.

At an unknown date prior to 1948, human remains representing, at minimum, one individual were removed from an unrecorded location, AZ X:8:— Wellton vicinity, on land south of Wellton in Yuma County, AZ. The human remains, contained in a ceramic jar, were collected by John Draper. In 1948, Mr. Draper donated the human remains and jar to the Yuma Territorial Prison Museum, which later came under the control of ASPT. In December 2000, ASP transferred the collection to ASM. No known individuals were identified. The one associated funerary object is a ceramic jar. The human remains and jar may have been removed from a cave, but there is no more specific information regarding the location or archeological context. The ceramic vessel is classified as Gila Plain, Gila Variety and is characteristic of ceramics produced by Hohokam people residing along the middle Gila River between Florence and Gila Bend, Arizona. The vessel likely dates to A.D. 950–1150, during the Sedentary Period of the Hohokam cultural sequence.

Archeologists describe the earliest settlements in southern Arizona as belonging to the Late Archaic/Early Agricultural horizon. Recent archeological investigations have added support to the hypothesis that the Hohokam cultural tradition arose from the earlier horizon, based on continuities in settlement pattern, architectural technologies, irrigation technologies, subsistence patterns, and material culture. It has been difficult for archeologists to date the beginning of the Hohokam period because the appearance of its distinctive cultural traits, including ceramic technologies and mortuary patterns, was a gradual process spanning several hundred years. This observation adds further support to the hypothesis that the Hohokam tradition evolved in place from earlier Late Archaic traditions. Linguistic evidence furthermore suggests that the Hohokam tradition was multiethnic in nature. Cultural continuity between these prehistoric occupants of Southern Arizona and present-day O'odham peoples is supported by continuities in settlement pattern, architectural technologies, basketry, textiles, ceramic technology, and ritual practices. Oral traditions that are documented for the Ak-Chin Indian Community (previously listed as the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona); Gila River Indian Community of the Gila River Indian Reservation, Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; and the Tohono O'odham Nation of Arizona, support cultural affiliation with Late Archaic/Early Agricultural period and Hohokam sites in southern Arizona.

Oral traditions that are documented for the Hopi Tribe also support cultural affiliation with Late Archaic/Early Agricultural period and Hohokam sites in the region. Several Hopi clans and religious societies are derived from ancestors who migrated from the south and likely identified with the Hohokam tradition.

Oral traditions of medicine societies and kiva groups of the Zuni Tribe recount migration from distant portions of the Southwest to present day Zuni, and support affiliation with Hohokam and Late Archaic traditions. Historical linguistic analysis also suggests interaction between ancestral Zuni and Uto-Aztecan speakers during the late Hohokam period.

Determinations Made by Arizona State Parks and Trails (ASPT) and the Arizona State Museum (ASM)

Officials of ASPT and ASM have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of two individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the one object described in this notice is reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Ak-Chin Indian Community (previously listed as the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona); Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and the Zuni Tribe of the Zuni Reservation, New Mexico, hereafter referred to as ''The Tribes.''

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated

funerary objects should submit a written request with information in support of the request to John McClelland, NAGPRA Coordinator, P.O. Box 210026, Arizona State Museum, University of Arizona, Tucson, AZ 85721, telephone (520) 626–2950, email *jmcclell@email.arizona.edu,* by November 16, 2018. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to The Tribes may proceed.

The ASM is responsible for notifying The Consulted Tribes that this notice has been published.

Dated: September 14, 2018.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2018–22596 Filed 10–16–18; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0026509; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Arizona State Museum, University of Arizona, Tucson, AZ; Correction

AGENCY: National Park Service, Interior.

ACTION: Notice; correction.

SUMMARY: The Arizona State Museum, University of Arizona has corrected an inventory of human remains and associated funerary objects, published in a Notice of Inventory Completion in the **Federal Register** on September 10, 2014. This notice corrects the number of associated funerary objects. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the Arizona State Museum, University of Arizona. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the Arizona State Museum, University of Arizona at the address in this notice by November 16, 2018.

ADDRESSES: Claire S. Barker, Repatriation Coordinator, P.O. Box 210026, Arizona State Museum, University of Arizona, Tucson, AZ 85721, telephone (520) 626–0320, email *csbarker@email.arizona.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the correction of an inventory of human remains and associated funerary objects under the control of the Arizona State Museum, University of Arizona, Tucson, AZ. The human remains and associated funerary objects were removed from Site AZ AA:12:46(ASM), Pima County, AZ.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

This notice corrects the number of associated funerary objects published in a Notice of Inventory Completion in the **Federal Register** (79 FR 53754–53759, September 10, 2014). The number of associated funerary objects increased due to a search through uncatalogued object collections. Transfer of control of the items in this correction notice has not occurred.

Correction

In the **Federal Register** (79 FR 53755, September 10, 2014), column 2, paragraph 2, sentence 7 is corrected by substituting the following sentence:

The 4,189 associated funerary objects are 38 animal bones, one lot of beads (unknown material), four bone artifacts, three bone awls, 40 bone awl fragments, two bone whistles, 35 lots of botanical material, 24 ceramic bowls, 36 ceramic bowl fragments, two ceramic disks, 13 ceramic jars, 34 ceramic jar fragments, one ceramic ladle, 16 ceramic pitchers, two ceramic scoops, 3,488 ceramic sherds, one ceramic sherd artifact, one ceramic vessel, eight lots of charcoal, 88 chipped stones, one piece of chipped stone debris, three chipped stone flakes, one chipped stone knife, one chipped stone scraper, one chipped stone tool, four clay fragments, one crystal, one daub fragment, three ground stones, three ground stone axes, two hand stones, two metallic cylinders, 13 mineral fragments, one lot of organic material, two pebbles, two lots of plant fiber matting, four pollen samples, three shells, 19 lots of shell and stone beads, 18 shell artifacts, 23 shell artifact fragments, 49 lots of shell beads, four shell bracelets, nine shell bracelet fragments, 33 lots of shell fragments, one shell fossil, five shell pendants, one shell pendant fragment, two soil samples, seven stones, two stone balls, three lots of stone beads, three stone cylinders, one stone disk, one stone pendant, 83 stone projectile points, two stone projectile point fragments, four lots of textile cord, seven lots of textile fragments, one turquoise tessera, and 26 wood fragments.

In the **Federal Register** (79 FR 53759, September 10, 2014), column 1, paragraph 1, sentence 1 is corrected by substituting the following sentence:

Pursuant to 25 U.S.C. 3001(3)(A), the 9,676 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Claire S. Barker, Repatriation Coordinator, P.O. Box 210026, Arizona State Museum, University of Arizona, Tucson, AZ 85721, telephone (520) 626–0320, email *csbarker@email.arizona.edu,* by November 16, 2018. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to the Ak-Chin Indian Community (previously listed as the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona); Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and the Zuni Tribe of the Zuni Reservation, New Mexico may proceed.

The Arizona State Museum, University of Arizona is responsible for notifying the Ak-Chin Indian Community (previously listed as the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona); Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and the Zuni Tribe of the Zuni Reservation, New Mexico that this notice has been published.

Dated: September 14, 2018.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2018–22594 Filed 10–16–18; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. United Technologies Corporation, et al.; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a proposed Final Judgment, Stipulation, and Competitive Impact Statement have been filed with the United States District Court for the District of Columbia in *United States of America* v. *United Technologies Corporation, et al.,* Civil Action No. 1:18–cv–02279. On October 1, 2018, the United States filed a Complaint alleging that United Technologies Corporation's proposed acquisition of Rockwell Collins, Inc. (''Rockwell Collins'') would violate Section 7 of the Clayton Act, 15 U.S.C. 18. The proposed Final Judgment, filed at the same time as the Complaint, requires the Defendants to divest Rockwell Collins' ice protection systems business and trimmable horizontal stabilizer business, including Rockwell Collins' pilot controls business.

Copies of the Complaint, proposed Final Judgment, and Competitive Impact Statement are available for inspection on the Antitrust Division's website at *http://www.justice.gov/atr* and at the Office of the Clerk of the United States District Court for the District of Columbia. Copies of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Public comment is invited within 60 days of the date of this notice. Such comments, including the name of the submitter, and responses thereto, will be posted on the Antitrust Division's website, filed with the Court, and, under certain circumstances, published in the **Federal Register**. Comments should be directed to Maribeth Petrizzi, Chief, Defense, Industrials, and Aerospace Section, Antitrust Division, Department of Justice, 450 Fifth Street NW, Suite 8700, Washington, DC 20530 (telephone: (202) 307–0924).

Patricia A. Brink,

Director of Civil Enforcement.

United States District Court for the District of Columbia

United States of America, U.S. Department of Justice, Antitrust Division, 450 5th Street NW, Suite 8700, Washington, DC 20530, Plaintiff, v., *United Technologies Corporation, 10 Farm Springs Road, Farmington, CT 06032,* and, *Rockwell Collins, Inc., 400 Collins Road NE, Cedar Rapids, IA 52498,* Defendants.

Civil Action No: 1:18-cv-02279,
Judge: Rudolph Contreras

COMPLAINT

The United States of America (''United States''), acting under the direction of the Attorney General of the United States, brings this civil antitrust action against United Technologies Corporation (''UTC'') and Rockwell Collins, Inc. (''Rockwell Collins'') to enjoin UTC's proposed acquisition of Rockwell Collins. The United States complains and alleges as follows:

I. NATURE OF THE ACTION

1. Pursuant to an asset purchase agreement dated September 4, 2017, UTC proposes to acquire all the shares of Rockwell Collins. The transaction is valued at approximately $30 billion. The acquisition would constitute one of the largest aerospace acquisitions in history.

2. UTC and Rockwell Collins are two of three suppliers in the world for pneumatic ice protection systems for fixed-wing aircraft (''aircraft''). Ice protection systems are critical to aircraft safety, as aircraft icing is a major hazard to aviation. The proposed acquisition would eliminate competition between UTC and Rockwell Collins for these systems.

3. UTC and Rockwell Collins are two of the leading suppliers in the worldwide market for trimmable horizontal stabilizer actuators (''THSAs'') for large aircraft. THSAs help an aircraft maintain the proper altitude during flight and are critical to the safe operation of the aircraft. The proposed acquisition would eliminate competition between UTC and Rockwell Collins for THSAs for large aircraft.

4. As a result, the proposed acquisition likely would substantially lessen competition in the worldwide markets for the development, manufacture, and sale of pneumatic ice protection systems for aircraft and THSAs for large aircraft in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18.

II. THE DEFENDANTS

5. UTC is incorporated in Delaware and has its headquarters in Farmington, Connecticut. UTC produces a wide range of products for the aerospace industry and other industries, including pneumatic ice protection systems for aircraft and THSAs for large aircraft. In 2017, UTC had sales of approximately $59.8 billion.

6. Rockwell Collins is incorporated in Delaware and is headquartered in Cedar Rapids, Iowa. Rockwell Collins is a major provider of aerospace and defense electronics systems. Rockwell Collins produces, among other products, pneumatic ice protection systems for aircraft and THSAs for large aircraft. In fiscal year 2017, Rockwell Collins had sales of approximately $6.8 billion.

III. JURISDICTION AND VENUE

7. The United States brings this action under Section 15 of the Clayton Act, 15 U.S.C. § 25, as amended, to prevent and restrain Defendants from violating Section 7 of the Clayton Act, 15 U.S.C. § 18.

8. Defendants develop, manufacture, and sell pneumatic ice protection systems for aircraft and THSAs for large aircraft in the flow of interstate commerce. Defendants' activities in the development, manufacture, and sale of these products substantially affects interstate commerce. This Court has subject matter jurisdiction over this action pursuant to Section 15 of the Clayton Act, 15 U.S.C. § 25, and 28 U.S.C. §§ 1331, 1337(a), and 1345.

9. Defendants have consented to venue and personal jurisdiction in this judicial district. Venue is therefore proper in this district under Section 12 of the Clayton Act, 15 U.S.C. § 22 and under 28 U.S.C. § 1391(c).

IV. PNEUMATIC ICE PROTECTION SYSTEMS

A. Background

10. During flight, ice can accumulate on an aircraft's leading edge surfaces, such as the part of the aircraft's wings that first contact the air during flight. Such accumulation affects an aircraft's maneuverability, increases drag, and decreases lift. If it remains untreated, surface ice accumulation can lead to a catastrophic flight event.

11. A pneumatic ice protection system is engineered to remove accumulated ice on an aircraft's wings. A pneumatic ice protection system consists of two main elements, a de-icing boot and pneumatic system hardware. A de-icing boot is an inflatable tube made of rubber or a similar material that is physically bonded to the leading edge of the

aircraft's wings. The pneumatic system hardware consists of equipment designed to control the flow of air into the de-icing boot. When ice begins to accumulate on the wings, the de-icing boot is inflated. The expansion of the de-icing boot cracks the ice off the leading edge. The de-icing boot may be inflated and deflated manually (by the pilot) or automatically (by a timer).

12. Pneumatic ice protection systems are one form of ice protection technology. Ice protection systems are selected at the aircraft design stage based on the characteristics of the aircraft. The specific design features of an aircraft, such as the availability of electrical power, determines which type of ice protection system will be used on the aircraft. For example, some aircraft use electrothermal systems, but such systems require significant electrical power to heat aircraft surfaces; other aircraft may use engine bleed air systems, but those systems require significant hot air bled from engines to heat aircraft surfaces. Aircraft using pneumatic ice protection systems generally have low availability of electrical power and insufficient bleed air from the aircraft engines, and also generally require lightweight and low-cost systems. This compels manufacturers of aircraft, such as the Gulfstream G150, the Cessna Citation M2, the Beechcraft King Air, and the ATR 42, to use pneumatic ice protection systems. Once an aircraft manufacturer has selected a particular pneumatic ice protection system, that system is certified as an Original Equipment Manufacturer (''OEM'') part of the aircraft's manufacturing design. Aircraft manufacturers generally only certify one supplier for ice protection systems for a particular aircraft model.

13. Pneumatic ice protection systems, and components thereof, are also sold in the aftermarket, as their components require repair or replacement after extended use. Most of the revenues related to pneumatic ice protection systems are derived from aftermarket sales. Aftermarket purchasers include aircraft manufacturers, aircraft operators, and service centers. Although generally only one particular pneumatic ice protection system is certified with the aircraft model as original equipment, pneumatic ice protection system suppliers often procure additional certifications that allow their pneumatic ice protection system components to replace their competitors' OEM pneumatic ice protection components in the aftermarket.

14. Because surface ice accumulation may lead to a catastrophic flight event, pneumatic ice protection systems are considered critical flight components. An aircraft manufacturer or aftermarket purchaser is therefore likely to prefer proven suppliers of pneumatic ice protection systems.

B. Relevant Markets

1. Product Market

15. Pneumatic ice protection systems have numerous attributes (lightweight, low-cost, and low-power requirements) that make them an attractive option for aircraft manufacturers of aircraft with certain design requirements. Certain aircraft models can only use pneumatic ice protection systems. For the customers that produce that model, pneumatic ice protection systems are the best option, as they cannot effectively use other types of ice protection systems such as an electrothermal system, which requires a significant amount of electrical power, or an engine bleed air system, which requires engines large enough to generate significant excess heat.

16. Once an aircraft is certified, switching the ice protection system on a particular model of aircraft to a different type of ice protection system, even if technologically feasible, would require some re-design of the ice protection portion of the aircraft and recertification of the aircraft, potentially costing millions of dollars, requiring additional flight testing, and consuming years of time. Therefore, a small but significant increase in the price of pneumatic ice protection systems would not cause customers of those ice protection systems to substitute an alternative type of ice protection system for the original aircraft or in the aftermarket in volumes sufficient to make such a price increase unprofitable. Accordingly, pneumatic ice protection systems are a relevant product market and line of commerce under Section 7 of the Clayton Act, 15 U.S.C. § 18.

17. Although the pneumatic ice protection system installed on each model of aircraft may be unique, and each system could therefore be deemed a separate product market, in each such market there are few competitors. The proposed acquisition of Rockwell Collins by UTC would affect competition for each pneumatic ice protection system in the same manner, as the competitive conditions are the same for each pneumatic ice protection system. It is therefore appropriate to aggregate the different systems to one pneumatic ice protection market for purposes of analyzing the effects of the acquisition.

2. Geographic Market

18. The relevant geographic market is worldwide within the meaning of Section 7 of the Clayton Act, 15 U.S.C. § 18. Pneumatic ice protection systems are marketed internationally and may be sourced economically from suppliers globally, because transportation costs are a small proportion of the cost of the system and thus are not a major factor in supplier selection.

C. Anticompetitive Effects of the Proposed Transaction

19. There are only three competitors in the market for the development, manufacture, and sale of pneumatic ice protection systems. These three firms are the only sources for both OEM systems and aftermarket systems and parts. Based on historical sales results, a combined UTC-Rockwell Collins would control a majority share of OEM and aftermarket sales. Therefore, UTC's acquisition of Rockwell Collins would significantly increase concentration in an already highly concentrated market.

20. UTC and Rockwell Collins compete directly on price. In some cases, one of the companies has replaced the other's pneumatic ice protection system or components thereof on a particular aircraft in the aftermarket. This acquisition threatens to extinguish that competition, likely leading to price increases and significant harm to aircraft manufacturers and aftermarket customers that require pneumatic ice protection systems.

21. Customers have benefited from the competition between UTC and Rockwell Collins for sales of pneumatic ice protection systems by receiving lower prices, more favorable contractual terms, and shorter delivery times. The combination of UTC and Rockwell Collins would eliminate this competition and its future benefits to customers. Post-acquisition, UTC likely would have the incentive and the ability to increase prices profitably and offer less favorable contractual terms.

22. The proposed acquisition, therefore, likely would substantially lessen competition in the development, manufacture, and sale of pneumatic ice protection systems for aircraft worldwide in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18.

D. Difficulty of Entry

23. Sufficient, timely entry of additional competitors into the markets for pneumatic ice protection systems is unlikely to prevent the harm to competition that is likely to result if the proposed acquisition is consummated.

Entry of a new competitor into the development, manufacture, and sale of a pneumatic ice protection system is unlikely and cannot happen in a time period that would prevent significant competitive harm.

24. Entry is unlikely due to the small size of the pneumatic ice protection system market. In addition, competitions for aircraft suitable for pneumatic ice protection systems are infrequent. Accordingly, there are limited bidding opportunities for OEM sales and less incentive for a new competitor to enter, which means that a supplier would be less likely to enter the market.

25. Pneumatic ice protection systems generally are not built by aircraft manufacturers, in part because pneumatic technology tends to be complicated and technically different from other aircraft systems. Therefore aircraft manufacturers are unlikely to bring production of such systems in-house in response to a price increase.

26. Although aftermarket replacement opportunities for existing pneumatic ice protection system suppliers are available in certain cases, entry is costly due to the associated certification costs. Aircraft manufacturers, operators, and servicers also hesitate to purchase aircraft systems and parts from new suppliers, particularly for critical flight components like ice protection systems.

27. As a result of these barriers, entry into the markets for pneumatic ice protection systems would not be timely, likely, or sufficient to defeat the substantial lessening of competition that is likely to result from UTC's acquisition of Rockwell Collins.

V. TRIMMABLE HORIZONTAL STABILIZER ACTUATORS FOR LARGE AIRCRAFT

A. Background

28. Actuators are responsible for the proper positions of an aircraft by manipulating the ''control surfaces'' on its wings and tail section. A trimmable horizontal stabilizer actuator (''THSA'') helps an aircraft maintain the proper altitude during flight by adjusting (''trimming'') the angle of the horizontal stabilizer, the control surface of the aircraft's tail responsible for aircraft pitch. This control surface is critical to the safety and performance of the aircraft, as a loss of control could cause the aircraft to crash. The stabilizer encounters significant aerodynamic loads for extended periods of time, and the THSA must be capable of handling these loads. THSAs thus tend to be the largest and most technically demanding actuators on an aircraft.

29. THSAs vary based on the size and type of the aircraft on which they are used. Because large aircraft encounter significantly higher aerodynamic loads than smaller aircraft, THSAs for large aircraft are considerably larger, more complex, and more expensive than those used on smaller aircraft. Large aircraft primarily include commercial aircraft that seat at least six passengers abreast (such as the Airbus A320 and A350 and the Boeing 737 and 787) and military transport aircraft, but exclude regional jets, business jets, and tactical military aircraft.

B. Relevant Markets

1. Product Market

30. THSAs for large aircraft do not have technical substitutes. Large aircraft manufacturers cannot switch to THSAs for smaller aircraft, or actuators for other aircraft control surfaces, because those products cannot adequately control the lift and manage the load generated by the horizontal stabilizer of a large aircraft. A small but significant increase in the price of THSAs for large aircraft would not cause aircraft manufacturers to substitute THSAs designed for smaller aircraft or actuators for other control surfaces in volumes sufficient to make such a price increase unprofitable. Accordingly, THSAs for large aircraft are a line of commerce and a relevant product market within the meaning of Section 7 of the Clayton Act, 15 U.S.C. § 18.

2. Geographic Market

31. The relevant geographic market within the meaning of Section 7 of the Clayton Act, 15 U.S.C. § 18 is worldwide. THSAs for large aircraft are marketed internationally and may be sourced from suppliers globally, because transportation costs are a small proportion of the cost of the product and thus are not a major factor in supplier selection.

C. Anticompetitive Effects of the Proposed Acquisition

32. UTC and Rockwell Collins are each other's closest competitors for THSAs for large aircraft. UTC and Rockwell Collins have won two of the most significant recent contract awards for THSAs for large aircraft: the Boeing 777X and the Airbus A350. Boeing and Airbus are the world's largest manufacturers of passenger aircraft, and these aircraft represent two of only three THSA awards by these manufacturers in this century.

33. While there are other producers of THSAs for large aircraft, those producers tend to concentrate on THSAs for smaller aircraft, such as business jets or regional jets, or to focus on products for other aircraft control surfaces.

34. UTC and Rockwell Collins each view the other firm as the most significant competitive threat for THSAs for large aircraft. The two companies are among the few that have demonstrated expertise in designing and producing THSAs for large aircraft. Each firm considers the other company's offering when planning bids.

35. Customers have benefitted from the competition between UTC and Rockwell Collins for THSAs for large aircraft by receiving lower prices, more favorable contractual terms, more innovative products, and shorter delivery times. The combination of UTC and Rockwell Collins would eliminate this competition and its future benefits to customers. Post-acquisition, UTC likely would have the incentive and the ability to increase prices profitably and offer less favorable contractual terms.

36. UTC and Rockwell Collins also invest significantly to remain leading suppliers of new THSAs for large aircraft, and aircraft manufacturers expect them to remain leading suppliers of new products in the future. The combination of UTC and Rockwell Collins would likely eliminate this competition, depriving large aircraft customers of the benefit of future innovation and product development.

37. The proposed acquisition, therefore, likely would substantially lessen competition for the development, manufacture, and sale of THSAs worldwide for large aircraft in violation of Section 7 of the Clayton Act.

D. Difficulty of Entry

38. Sufficient, timely entry of additional competitors into the market for THSAs for large aircraft is unlikely to prevent the harm to competition that is likely to result if the proposed transaction is consummated.

39. Developing a THSA for large aircraft is technically difficult. Even manufacturers of THSAs for smaller aircraft face significant technical hurdles in designing and developing THSAs for large aircraft. As aerodynamic loads are a major design consideration for THSAs, and such loads are tightly correlated with the size of the aircraft, THSAs for large aircraft present more demanding technical challenges than those for smaller aircraft.

40. Opportunities to enter are limited. Because certification of a THSA is expensive and time-consuming, once a THSA is certified for a particular aircraft type, it is rarely replaced in the aftermarket by a different THSA.

Accordingly, competition between suppliers of THSAs generally only occurs when an aircraft manufacturer is designing a new aircraft or an upgraded version of an existing aircraft, which are infrequent occurrences because development costs for such aircraft can be tens of billions of dollars. As a result, several years usually pass between contract awards for THSAs for a new aircraft design.

41. Potential entrants into the production of THSAs for large aircraft face several additional obstacles. First, manufacturers of large aircraft are more likely to purchase THSAs from those firms already supplying THSAs for other large aircraft. The important connection between THSAs and aircraft safety drives aircraft manufacturers toward suppliers experienced with production of THSAs of the relevant type and size. While some companies may have demonstrated experience in THSAs for smaller aircraft, such experience is not considered by customers to be as relevant as experience in THSAs for large aircraft. A new entrant would face significant costs and time to be considered a potential alternative to the existing suppliers.

42. Substantial time and significant financial investment would be required for a company to design and develop a THSA for large aircraft. Even companies that already make other types of THSAs would require years of effort and an investment of many millions of dollars to develop a product that is competitive with those offered by existing large aircraft THSA suppliers.

43. As a result of these barriers, entry into the market for THSAs for large aircraft would not be timely, likely, or sufficient to defeat the substantial lessening of competition that would likely result from UTC's acquisition of Rockwell Collins.

VI. VIOLATIONS ALLEGED

44. UTC's acquisition of Rockwell Collins likely would lessen competition substantially in the development, manufacture, and sale of pneumatic ice protection systems for aircraft and THSAs for large aircraft, in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18.

45. Unless enjoined, the acquisition likely would have the following anticompetitive effects, among others, relating to pneumatic ice protection systems for aircraft:

(a) actual and potential competition between UTC and Rockwell Collins would be eliminated;
(b) competition likely would be substantially lessened; and
(c) prices likely would increase and contractual terms likely would be less favorable to the customers.

46. Unless enjoined, the proposed acquisition likely would have the following anticompetitive effects relating to THSAs for large aircraft, among others:

(a) actual and potential competition between UTC and Rockwell Collins would be eliminated;
(b) competition likely would be substantially lessened;
(c) prices would likely increase, contractual terms likely would be less favorable to the customers, and innovation likely would decrease.

VII. REQUEST FOR RELIEF

47. The United States requests that this Court:

(a) adjudge and decree that UTC's acquisition of Rockwell Collins would be unlawful and violate Section 7 of the Clayton Act, 15 U.S.C. § 18;
(b) preliminarily and permanently enjoin and restrain Defendants and all persons acting on their behalf from consummating the proposed acquisition of Rockwell Collins by UTC, or from entering into or carrying out any other contract, agreement, plan, or understanding, the effect of which would be to combine UTC with Rockwell Collins;
(c) award the United States its costs for this action; and
(d) award the United States such other and further relief as the Court deems just and proper.

Dated: October 1, 2018

Respectfully submitted,
FOR PLAINTIFF UNITED STATES:

MAKAN DELRAHIM (DC Bar #457795)
Assistant Attorney General, Chief Antitrust Division

ANDREW C. FINCH (DC Bar #494992)
Principal Deputy Assistant Attorney General, Antitrust Division

PATRICIA A. BRINK
Director of Civil Enforcement

MARIBETH PETRIZZI (DC Bar #435204)
Chief, Defense, Industrials, and Aerospace Section, Antitrust Division

STEPHANIE A. FLEMING
Assistant Chief, Defense, Industrials, and Aerospace Section, Antitrust Division

SOYOUNG CHOE *
SIDDHARTH DADHICH
KEVIN QUIN (D.C. Bar #415268)
Defense, Industrials, and Aerospace Section, Antitrust Division, 450 Fifth Street NW, Suite 8700, Washington, DC 20530, Telephone: (202) 598–2436, Facsimile: (202) 514–9033, *soyoung.choe@usdoj.gov*
* LEAD ATTORNEY TO BE NOTICED

United States District Court for the District of Columbia

UNITED STATES OF AMERICA, Plaintiff, v. *United Technologies Corporation* and *Rockwell Collins, Inc.,* Defendants.

Civil Action No: 1:18-cv-02279
Judge: Rudolph Contreras

PROPOSED FINAL JUDGMENT

WHEREAS, Plaintiff, United States of America, filed its Complaint on October 1, 2018, the United States and Defendants, United Technologies Corporation (''UTC'') and Rockwell Collins, Inc. (''Rockwell Collins''), by their respective attorneys, have consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law and without this Final Judgment constituting any evidence against or admission by any party regarding any issue of fact or law;

AND WHEREAS, Defendants agree to be bound by the provisions of this Final Judgment pending its approval by the Court;

AND WHEREAS, the essence of this Final Judgment is the prompt and certain divestiture of certain rights or assets by Defendants to assure that competition is not substantially lessened;

AND WHEREAS, the United States requires Defendants to make certain divestitures for the purpose of remedying the loss of competition alleged in the Complaint;

AND WHEREAS, Defendants have represented to the United States that the divestitures required below can and will be made and that Defendants will later raise no claim of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained below;

NOW THEREFORE, before any testimony is taken, without trial or adjudication of any issue of fact or law, and upon consent of the parties, it is ORDERED, ADJUDGED, AND DECREED:

I. JURISDICTION

The Court has jurisdiction over the subject matter of and each of the parties to this action. The Complaint states a claim upon which relief may be granted against Defendants under Section 7 of the Clayton Act, as amended (15 U.S.C. § 18).

II. DEFINITIONS

As used in this Final Judgment:

A. ''Acquirer'' or ''Acquirers'' means the entity or entities to whom Defendants divest any of the Divestiture Assets.

B. ''Acquirer of the Ice Protection Divestiture Assets'' means the entity to which Defendants divest the Ice Protection Divestiture Assets.

C. ''Acquirer of the THSA Divestiture Assets'' means Safran S.A. or the entity to which Defendants divest the THSA Divestiture Assets.

D. ''UTC'' means defendant United Technologies Corporation, a Delaware corporation with its headquarters in Farmington, Connecticut, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

E. ''Rockwell Collins'' means defendant Rockwell Collins, Inc., a Delaware corporation with its headquarters in Cedar Rapids, Iowa, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

F. ''Ice Protection Business'' means Rockwell Collins' SMR Technologies division, including Rockwell's business in the development, manufacture, and sale of pneumatic ice protection systems and other ice protection products.

G. ''WEMAC Product Line'' means the Rockwell Collins products sold under the WEMAC name, including air gasper valves and interior signage components.

H. ''Ice Protection Divestiture Assets'' means Rockwell Collins' Ice Protection Business, including:

1. The facility located at 93 Nettie-Fenwick Road, Fenwick, West Virginia (''Fenwick Facility'');

2. All tangible assets primarily related to the Ice Protection Business, with the exception of those used exclusively in the WEMAC Product Line, including but not limited to research and development activities; all manufacturing equipment, tooling and fixed assets, personal property, inventory, office furniture, materials, supplies, and other tangible property; all licenses, permits, certifications, and authorizations issued by any governmental organization relating to the Ice Protection Business; all contracts, teaming arrangements, agreements, leases, commitments, certifications, and understandings, including supply agreements; all customer lists, contracts, accounts, and credit records; all repair and performance records and all other records relating to the Ice Protection Business;

3. All intangible assets primarily related to the Ice Protection Business, with the exception of those used exclusively in the WEMAC Product Line, including, but not limited to, all patents; licenses and sublicenses; intellectual property; copyrights; trademarks; trade names; service marks; service names; technical information; computer software and related documentation; know-how; trade secrets; drawings; blueprints; designs; design protocols; specifications for materials; specifications for parts and devices; safety procedures for the handling of materials and substances; quality assurance and control procedures; design tools and simulation capability; all manuals and technical information Defendants provide to their own employees, customers, suppliers, agents, or licensees; and all research data concerning historic and current research and development efforts relating to the Ice Protection Business, including, but not limited to, designs of experiments and the results of successful and unsuccessful designs and experiments.

I. ''THSA Divestiture Business'' means Rockwell Collins' business in the design, development, manufacture, sale, service, or distribution of: (i) trimmable horizontal stabilizer actuators (''THSAs''), legacy flap actuation, and nose wheel steering gear boxes; and (ii) pilot control systems, including center yokes, rudder brake pedal units, throttle quadrant assemblies, auto-throttles, and control stand modules.

J. ''THSA Divestiture Assets'' means, subject to the terms of Paragraph V(D) of this Final Judgment:

1. The facilities located at 1833 Alton Parkway, Irvine, California (''Building 518'') and Ave. Sierra San Agustin #2498, Col. El Porvenir C.P. 21185, Mexicali, Mexico (''Building 1'');

2. At the option of the Acquirer of the THSA Divestiture Assets, the facilities located at 1733 Alton Parkway, Irvine, California (''Building 517''), 1100 W. Hibiscus Boulevard, Melbourne, Florida (''Building 213''), and Ave. Sierra San Agustin #2498, Col. El Porvenir C.P. 21185, Mexicali, Mexico (''Building 2'');

3. All tangible assets primarily related to or necessary for the operation of the THSA Divestiture Business, including but not limited to research and development activities, all manufacturing equipment, tooling and fixed assets, personal property, inventory, office furniture, materials, supplies, and other tangible property; all licenses, permits, certifications, and authorizations issued by any governmental organization relating to the THSA Divestiture Business; all contracts; all teaming arrangements, agreements, leases, commitments, certifications, and understandings, including supply agreements; all customer lists, contracts, accounts, and credit records; all repair and performance records and all other records relating to the THSA Divestiture Business;

4. All intangible assets primarily related to or necessary for the operation of the THSA Divestiture Business, including, but not limited to, all patents; licenses and sublicenses; intellectual property; copyrights; trademarks; trade names; service marks; service names; technical information; computer software and related documentation; know-how; trade secrets; drawings; blueprints; designs; design protocols; specifications for materials; specifications for parts and devices; safety procedures for the handling of materials and substances; quality assurance and control procedures; design tools and simulation capability; all manuals and technical information Defendants provide to their own employees, customers, suppliers, agents, or licensees; and all research data concerning historic and current research and development efforts relating to the THSA Divestiture Business, including, but not limited to, designs of experiments and the results of successful and unsuccessful designs and experiments.

K. ''Divestiture Assets'' means the Ice Protection Divestiture Assets and the THSA Divestiture Assets.

L. ''Required Regulatory Approvals'' means (1) clearance pursuant to any Committee on Foreign Investment in the United States (''CFIUS'') filing or similar foreign investment filing, if any, made by the Defendants and/or any Acquirer of the Divestiture Assets; and (2) any approvals or clearances required under antitrust or competition laws.

III. APPLICABILITY

A. This Final Judgment applies to UTC and Rockwell Collins, as defined above, and all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

B. If, prior to complying with Section IV, Section V, and Section VI of this Final Judgment, Defendants sell or otherwise dispose of all or substantially all of their assets or of lesser business units that include the Divestiture Assets, Defendants shall require the purchaser to be bound by the provisions of this Final Judgment. Defendants need not obtain such an agreement from the

Acquirers of the assets divested pursuant to this Final Judgment.

IV. DIVESTITURE OF THE ICE PROTECTION DIVESTITURE ASSETS

A. Defendants are ordered and directed, within the later of (1) five (5) calendar days after notice of entry of this Final Judgment by the Court or (2) fifteen (15) calendar days after Required Regulatory Approvals have been received to divest the Ice Protection Divestiture Assets in a manner consistent with this Final Judgment to an Acquirer acceptable to the United States, in its sole discretion. The United States, in its sole discretion, may agree to one or more extensions of this time period not to exceed sixty (60) calendar days in total, and shall notify the Court in such circumstances. Defendants agree to use their best efforts to divest the Ice Protection Divestiture Assets as expeditiously as possible.

B. In accomplishing the divestiture of the Ice Protection Divestiture Assets ordered by this Final Judgment, Defendants promptly shall make known, by usual and customary means, the availability of the Ice Protection Divestiture Assets. Defendants shall inform any person making an inquiry regarding a possible purchase of the Ice Protection Divestiture Assets that they are being divested pursuant to this Final Judgment and provide that person with a copy of this Final Judgment. Defendants shall offer to furnish to all prospective Acquirers, subject to customary confidentiality assurances, all information and documents relating to the Ice Protection Divestiture Assets customarily provided in a due diligence process, except information or documents subject to the attorney-client privilege or work-product doctrine. Defendants shall make available such information to the United States at the same time that such information is made available to any other person.

C. Defendants shall provide the Acquirer of the Ice Protection Divestiture Assets and the United States information relating to the personnel involved in the design, development, production, distribution, sale, or service of products by or under any of the Ice Protection Divestiture Assets to enable the Acquirer of the Ice Protection Divestiture Assets to make offers of employment. Defendants will not interfere with any negotiations by the Acquirer of the Ice Protection Divestiture Assets to employ any Defendant employee whose primary responsibility is the design, development, production, distribution, sale, or service of products by or under any of the Ice Protection Divestiture Assets.

D. Defendants shall permit prospective Acquirers of the Ice Protection Divestiture Assets to have reasonable access to personnel and to make inspections of the physical facilities to be divested; access to any and all environmental, zoning, and other permit documents and information; and access to any and all financial, operational, or other documents and information customarily provided as part of a due diligence process.

E. Defendants shall warrant to the Acquirer of the Ice Protection Divestiture Assets that each asset will be operational on the date of sale.

F. Defendants shall not take any action that will impede in any way the permitting, operation, or divestiture of the Ice Protection Divestiture Assets.

G. Defendants shall warrant to the Acquirer of the Ice Protection Divestiture Assets (1) that there are no material defects in the environmental, zoning, or other permits pertaining to the operation of the Ice Protection Divestiture Assets, and (2) that following the sale of the Ice Protection Divestiture Assets, Defendants will not undertake, directly or indirectly, any challenges to the environmental, zoning, or other permits relating to the operation of the Ice Protection Divestiture Assets.

H. At the option of the Acquirer of the Ice Protection Divestiture Assets, Defendants shall enter into a transition services agreement with the Acquirer of the Ice Protection Divestiture Assets to provide back office and information technology services and support for the Ice Protection Divestiture Assets for a period of up to twelve (12) months. The United States, in its sole discretion, may approve one or more extensions of this agreement for a total of up to an additional twelve (12) months. If the Acquirer of the Ice Protection Divestiture Assets seeks an extension of the term of this transition services agreement, it shall so notify the United States in writing at least three (3) months prior to the date the transition services contract expires. If the United States approves such an extension, it shall so notify the Acquirer of the Ice Protection Divestiture Assets in writing at least two (2) months prior to the date the transition services contract expires. The terms and conditions of any contractual arrangement intended to satisfy this provision must be reasonably related to the market value of the expertise of the personnel providing any needed assistance. The UTC employee(s) tasked with providing these transition services may not share any competitively sensitive information of the Acquirer of the Ice Protection Divestiture Assets with any other UTC employee.

I. Defendants shall remove from the Fenwick Facility the assets used exclusively with the WEMAC Product Line within nine (9) months of the divestiture of the Ice Protection Divestiture Assets. The United States, in its sole discretion, may agree to one or more extensions of this time period not to exceed three (3) months in total.

J. Unless the United States otherwise consents in writing, the divestiture pursuant to Section IV, or by Divestiture Trustee appointed pursuant to Section VI, of this Final Judgment, shall include the entire Ice Protection Divestiture Assets, and shall be accomplished in such a way as to satisfy the United States, in its sole discretion, that the Ice Protection Divestiture Assets can and will be used by the Acquirer of the Ice Protection Divestiture Assets as part of a viable, ongoing business of the development, manufacture, sale, service, or distribution of pneumatic ice protection systems. The divestiture, whether pursuant to Section IV or Section V of this Final Judgment,

(1) shall be made to an Acquirer of the Ice Protection Divestiture Assets that, in the United States' sole judgment, has the intent and capability (including the necessary managerial, operational, technical, and financial capability) of competing effectively in the business of the development, manufacture, and sale of pneumatic ice protection systems; and

(2) shall be accomplished so as to satisfy the United States, in its sole discretion, that none of the terms of any agreement between an Acquirer of the Ice Protection Divestiture Assets and Defendants give Defendants the ability unreasonably to raise the Acquirer's costs, to lower the Acquirer's efficiency, or otherwise to interfere in the ability of the Acquirer to compete effectively.

V. DIVESTITURE OF THE THSA DIVESTITURE ASSETS

A. Defendants are ordered and directed, within the later of (1) five (5) calendar days after notice of entry of this Final Judgment or (2) fifteen (15) calendar days after Required Regulatory Approvals have been received, to divest the THSA Divestiture Assets in a manner consistent with this Final Judgment to an Acquirer acceptable to the United States, in its sole discretion. At the option of the Acquirer of the

THSA Divestiture Assets, and subject to the review and approval by the United States, Building 518 may be transferred via a sublease in lieu of a divestiture. The United States, in its sole discretion, may agree to one or more extensions of this time period not to exceed sixty (60) calendar days in total, and shall notify the Court in such circumstances. Defendants agree to use their best efforts to divest the Divestiture Assets as expeditiously as possible.

B. In the event Defendants are attempting to divest the THSA Divestiture Assets to an Acquirer other than Safran S.A., Defendants promptly shall make known, by usual and customary means, the availability of the THSA Divestiture Assets. Defendants shall inform any person making an inquiry regarding a possible purchase of the THSA Divestiture Assets that they are being divested pursuant to this Final Judgment and provide that person with a copy of this Final Judgment. Defendants shall offer to furnish to all prospective Acquirers, subject to customary confidentiality assurances, all information and documents relating to the THSA Divestiture Assets customarily provided in a due diligence process except information or documents subject to the attorney-client privilege or work-product doctrine. Defendants shall make available such information to the United States at the same time that such information is made available to any other person.

C. Defendants shall provide the Acquirer of the THSA Divestiture Assets and the United States information relating to the personnel involved in the design, development, production, distribution, sale, or service of products by or under any of the THSA Divestiture Assets to enable the Acquirer of the THSA Divestiture Assets to make offers of employment. Defendants will not interfere with any negotiations by the Acquirer of the THSA Divestiture Assets to employ any Defendant employee whose primary responsibility is the design, development, production, distribution, sale, or service of products by or under any of the THSA Divestiture Assets.

D. Defendants shall use reasonable best efforts to obtain any approvals required from United States government customers for the transfer of proprietary contracts to the Acquirer of the THSA Divestiture Assets. If such approvals cannot be obtained, notwithstanding anything to the contrary in this Final Judgment, Defendants may:

1. Retain the proprietary contracts and those portions thereof that cannot be subcontracted to the Acquirer of the THSA Divestiture Assets; and

2 Retain those tangible and intangible assets that have been used exclusively in the performance of the proprietary contracts.

E. Defendants shall permit prospective Acquirers of the THSA Divestiture Assets to have reasonable access to personnel and to make inspections of the physical facilities to be divested; access to any and all environmental, zoning, and other permit documents and information; and access to any and all financial, operational, or other documents and information customarily provided as part of a due diligence process.

F. Defendants shall warrant to the Acquirer of the THSA Divestiture Assets that each asset will be operational on the date of sale.

G. Defendants shall not take any action that will impede in any way the permitting, operation, or divestiture of the THSA Divestiture Assets.

H. Defendants shall warrant to the Acquirer of the THSA Divestiture Assets (1) that there are no material defects in the environmental, zoning, or other permits pertaining to the operation of the THSA Divestiture Assets, and (2) that following the sale of the THSA Divestiture Assets, Defendants will not undertake, directly or indirectly, any challenges to the environmental, zoning, or other permits relating to the operation of the THSA Divestiture Assets.

I. At the option of the Acquirer of the THSA Divestiture Assets, Defendants shall enter into a transition services agreement with the Acquirer of the THSA Divestiture Assets to provide services related to facility management and upkeep, facility and asset transition, government compliance, accounting and finance, information technology and human resources for the THSA Divestiture Assets for a period of up to twelve (12) months. The United States, in its sole discretion, may approve one or more extensions of this agreement for a total of up to an additional twelve (12) months. If the Acquirer of the THSA Divestiture Assets seeks an extension of the term of this transition services agreement, it shall so notify the United States in writing at least three (3) months prior to the date the transition services contract expires. If the United States approves such an extension, it shall so notify the Acquirer of the THSA Divestiture Assets in writing at least two (2) months prior to the date the transition services contract expires. The terms and conditions of any contractual arrangement intended to satisfy this provision must be reasonably related to the market value of the expertise of the personnel providing any needed assistance. The UTC employee(s) tasked with providing these transition services may not share any competitively sensitive information of the Acquirer of the THSA Divestiture Assets with any other UTC employee.

J. During the term of the transition services agreement in Paragraph V(I), Defendants shall use their best efforts to assist the Acquirer of the THSA Divestiture Assets with the transition of the THSA Divestiture Assets to locations chosen by the Acquirer of the THSA Divestiture Assets and the Defendants shall not impede this transition of the THSA Divestiture Assets.

K. At the option of the Acquirer of the THSA Divestiture Assets, Defendants shall enter into a supply agreement to provide services related to the manufacture of THSAs in Building 213 and Rockwell Collins' Iowa C Ave Complex facility located at 400 Collins Road NE, Cedar Rapids, Iowa sufficient to meet all or part of the needs of the Acquirer of the THSA Assets for a period of up to twelve months. The United States, in its sole discretion, may approve one or more extensions of this agreement for a total of up to an additional twelve (12) months. If the Acquirer of the THSA Divestiture Assets seeks an extension of the term of this agreement, it shall so notify the United States in writing at least three (3) months prior to the date the contract expires. If the United States approves such an extension, it shall so notify the Acquirer of the THSA Divestiture Assets in writing at least two (2) months prior to the date the agreement expires. The terms and conditions of any contractual arrangement meant to satisfy this provision must be reasonably related to market conditions for such services.

L. Unless the United States otherwise consents in writing, the divestiture pursuant to Section V, or by Divestiture Trustee appointed pursuant to Section VI, of this Final Judgment, shall include the entire THSA Divestiture Assets, and shall be accomplished in such a way as to satisfy the United States, in its sole discretion, that the THSA Divestiture Assets can and will be used by the Acquirer of the THSA Divestiture Assets as part of a viable, ongoing business of the development, manufacture, and sale of THSAs. The divestiture, whether pursuant to Section V or Section VI of this Final Judgment,

(1) shall be made to an Acquirer of the THSA Divestiture Assets that, in the United States' sole judgment, has the intent and capability (including the necessary managerial, operational, technical, and financial

capability) of competing effectively in the business of the development, manufacture, and sale of THSAs; and

(2) shall be accomplished so as to satisfy the United States, in its sole discretion, that none of the terms of any agreement between an Acquirer of the THSA Divestiture Assets and Defendants give Defendants the ability unreasonably to raise the Acquirer's costs, to lower the Acquirer's efficiency, or otherwise to interfere in the ability of the Acquirer to compete effectively.

VI. APPOINTMENT OF DIVESTITURE TRUSTEE

A. If Defendants have not divested all of the Divestiture Assets within the time periods specified in Paragraphs IV(A) and V(A), Defendants shall notify the United States of that fact in writing. Upon application of the United States, the Court shall appoint a Divestiture Trustee selected by the United States and approved by the Court to effect the divestiture(s) of any of the Divestiture Assets that have not been sold during the time periods specified in Paragraphs IV(A) and V(A).

B. After the appointment of a Divestiture Trustee becomes effective, only the Divestiture Trustee shall have the right to sell those Divestiture Assets that the Divestiture Trustee has been appointed to sell. The Divestiture Trustee shall have the power and authority to accomplish the divestiture(s) to an Acquirer(s) acceptable to the United States, in its sole discretion at such price and on such terms as are then obtainable upon reasonable effort by the Divestiture Trustee, subject to the provisions of Sections IV, V, VI, and VII of this Final Judgment, and shall have such other powers as the Court deems appropriate. Subject to Paragraph VI(D) of this Final Judgment, the Divestiture Trustee may hire at the cost and expense of Defendants any agents, investment bankers, attorneys, accountants, or consultants, who shall be solely accountable to the Divestiture Trustee, reasonably necessary in the Divestiture Trustee's judgment to assist in the divestiture(s). Any such agents or consultants shall serve on such terms and conditions as the United States approves, including confidentiality requirements and conflict of interest certifications.

C. Defendants shall not object to a sale by the Divestiture Trustee on any ground other than the Divestiture Trustee's malfeasance. Any such objections by Defendants must be conveyed in writing to the United States and the Divestiture Trustee within ten (10) calendar days after the Divestiture Trustee has provided the notice required under Section VII.

D. The Divestiture Trustee shall serve at the cost and expense of Defendants pursuant to a written agreement, on such terms and conditions as the United States approves, including confidentiality requirements and conflict of interest certifications. The Divestiture Trustee shall account for all monies derived from the sale of the assets sold by the Divestiture Trustee and all costs and expenses so incurred. After approval by the Court of the Divestiture Trustee's accounting, including fees for any of its services yet unpaid and those of any professionals and agents retained by the Divestiture Trustee, all remaining money shall be paid to Defendants and the trust shall then be terminated. The compensation of the Divestiture Trustee and any professionals and agents retained by the Divestiture Trustee shall be reasonable in light of the value of the Divestiture Assets that are being sold by the Divestiture Trustee and based on a fee arrangement that provides the Divestiture Trustee with incentives based on the price and terms of the divestiture and the speed with which it is accomplished, but the timeliness of the divestiture(s) is paramount. If the Divestiture Trustee and Defendants are unable to reach agreement on the Divestiture Trustee's or any agents' or consultants' compensation or other terms and conditions of engagement within fourteen (14) calendar days of the appointment of the Divestiture Trustee, the United States may, in its sole discretion, take appropriate action, including making a recommendation to the Court. The Divestiture Trustee shall, within three (3) business days of hiring any other agents or consultants, provide written notice of such hiring and the rate of compensation to Defendants and the United States.

E. Defendants shall use their best efforts to assist the Divestiture Trustee in accomplishing the required divestiture(s). The Divestiture Trustee and any agents or consultants retained by the Divestiture Trustee shall have full and complete access to the personnel, books, records, and facilities of the business to be divested, and Defendants shall provide or develop financial and other information relevant to such business as the Divestiture Trustee may reasonably request, subject to reasonable protection for trade secrets or other confidential research, development, or commercial information or any applicable privileges. Defendants shall take no action to interfere with or to impede the Divestiture Trustee's accomplishment of the divestiture(s).

F. After its appointment, the Divestiture Trustee shall file monthly reports with the United States and, as appropriate, the Court setting forth the Divestiture Trustee's efforts to accomplish the divestiture(s) ordered under this Final Judgment. To the extent such reports contain information that the Divestiture Trustee deems confidential, such reports shall not be filed in the public docket of the Court. Such reports shall include the name, address, and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Divestiture Assets, and shall describe in detail each contact with any such person. The Divestiture Trustee shall maintain full records of all efforts made to divest any of the Divestiture Assets.

G. If the Divestiture Trustee has not accomplished the divestitures ordered under this Final Judgment within six months after its appointment, the Divestiture Trustee shall promptly file with the Court a report setting forth (1) the Divestiture Trustee's efforts to accomplish the required divestiture, (2) the reasons, in the Divestiture Trustee's judgment, why the required divestiture has not been accomplished, and (3) the Divestiture Trustee's recommendations. To the extent such report contain information that the Divestiture Trustee deems confidential, such report shall not be filed in the public docket of the Court. The Divestiture Trustee shall at the same time furnish such report to the United States which shall have the right to make additional recommendations consistent with the purpose of the trust. The Court thereafter shall enter such orders as it shall deem appropriate to carry out the purpose of the Final Judgment, which may, if necessary, include extending the trust and the term of the Divestiture Trustee's appointment by a period requested by the United States.

H. If the United States determines that the Divestiture Trustee has ceased to act or failed to act diligently or in a reasonably cost-effective manner, the United States may recommend the Court appoint a substitute Divestiture Trustee.

VII. NOTICE OF PROPOSED DIVESTITURE

A. Within two (2) business days following execution of a definitive divestiture agreement, Defendants or the Divestiture Trustee, whichever is then

responsible for effecting the divestitures required herein, shall notify the United States of any proposed divestiture required by Sections IV, V or VI of this Final Judgment. If the Divestiture Trustee is responsible, it shall similarly notify Defendants. The notice shall set forth the details of the proposed divestiture(s) and list the name, address, and telephone number of each person not previously identified who offered or expressed an interest in or desire to acquire any ownership interest in the Divestiture Assets, together with full details of the same.

B. Within fifteen (15) calendar days of receipt by the United States of such notice, the United States may request from Defendants, the proposed Acquirer(s), any other third party, or the Divestiture Trustee, if applicable, additional information concerning the proposed divestiture, the proposed Acquirer(s), and any other potential Acquirer. Defendants and the Divestiture Trustee shall furnish any additional information requested within fifteen (15) calendar days of the receipt of the request, unless the parties shall otherwise agree.

C. Within thirty (30) calendar days after receipt of the notice or within twenty (20) calendar days after the United States has been provided the additional information requested from Defendants, the proposed Acquirer(s), any third party, and the Divestiture Trustee, whichever is later, the United States shall provide written notice to Defendants and the Divestiture Trustee, if there is one, stating whether or not it objects to the proposed divestiture. If the United States provides written notice that it does not object, the divestiture may be consummated, subject only to Defendants' limited right to object to the sale under Paragraph VI(C) of this Final Judgment. Absent written notice that the United States does not object to the proposed Acquirer(s) or upon objection by the United States, a divestiture proposed under Sections IV, V, or VI shall not be consummated. Upon objection by Defendants under Paragraph VI(C), a divestiture proposed under Section VI shall not be consummated unless approved by the Court.

VIII. FINANCING

Defendants shall not finance all or any part of any purchase made pursuant to Section IV, Section V, or Section VI of this Final Judgment.

IX. HOLD SEPARATE

Until the divestitures required by this Final Judgment have been accomplished, Defendants shall take all steps necessary to comply with the Hold Separate Stipulation and Order entered by the Court. Defendants shall take no action that would jeopardize the divestitures ordered by the Court.

X. AFFIDAVITS

A. Within twenty (20) calendar days of the filing of the Complaint in this matter, and every thirty (30) calendar days thereafter until the divestitures have been completed under Sections IV, V, or VI, Defendants shall deliver to the United States an affidavit, signed by UTC's Executive Vice President, Operations & Strategy and General Counsel, and Rockwell Collins' Chief Financial Officer and General Counsel, which shall describe the fact and manner of Defendants' compliance with Sections IV, V or VI of this Final Judgment. Each such affidavit shall include the name, address, and telephone number of each person who, during the preceding thirty (30) calendar days, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Divestiture Assets, and shall describe in detail each contact with any such person during that period. Each such affidavit shall also include a description of the efforts Defendants have taken to solicit buyers for the Divestiture Assets, and to provide required information to prospective Acquirers, including the limitations, if any, on such information. Assuming the information set forth in the affidavit is true and complete, any objection by the United States to information provided by Defendants, including limitation on information, shall be made within fourteen (14) calendar days of receipt of such affidavit.

B. Within twenty (20) calendar days of the filing of the Complaint in this matter, Defendants shall deliver to the United States an affidavit that describes in reasonable detail all actions Defendants have taken and all steps Defendants have implemented on an ongoing basis to comply with Section IX of this Final Judgment. Defendants shall deliver to the United States an affidavit describing any changes to the efforts and actions outlined in Defendants' earlier affidavits filed pursuant to this Section within fifteen (15) calendar days after the change is implemented.

C. Defendants shall keep all records of all efforts made to preserve and divest the Divestiture Assets until one year after such divestiture has been completed.

XI. COMPLIANCE INSPECTION

A. For the purposes of determining or securing compliance with this Final Judgment, or of any related orders such as any Hold Separate Stipulation and Order, or of determining whether the Final Judgment should be modified or vacated, and subject to any legally-recognized privilege, from time to time authorized representatives of the United States, including agents and consultants retained by the United States, shall, upon written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to Defendants, be permitted:

(1) access during Defendants' office hours to inspect and copy or, at the option of the United States, to require Defendants to provide electronic copies of, all books, ledgers, accounts, records, data, and documents in the possession, custody, or control of Defendants, relating to any matters contained in this Final Judgment; and

(2) to interview, either informally or on the record, Defendants' officers, employees, or agents, who may have their individual counsel present, regarding such matters. The interviews shall be subject to the reasonable convenience of the interviewee and without restraint or interference by Defendants.

B. Upon the written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division, Defendants shall submit written reports or response to written interrogatories, under oath if requested, relating to any of the matters contained in this Final Judgment as may be requested.

C. No information or documents obtained by the means provided in Section XI shall be divulged by the United States to any person other than an authorized representative of the executive branch of the United States, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time that Defendants furnish information or documents to the United States, Defendants represent and identify in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure, and Defendants mark each pertinent page of such material, ''Subject to claim of protection under Rule 26(c)(1)(G) of the

Federal Rules of Civil Procedure,'' then the United States shall give Defendants ten (10) calendar days' notice prior to divulging such material in any legal proceeding (other than a grand jury proceeding).

XII. NOTIFICATION

A. Unless such transaction is otherwise subject to the reporting and waiting period requirements of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, 15 U.S.C. § 18a (the ''HSR Act''), Defendants, without providing advance notification to the United States, shall not directly or indirectly acquire any assets of or any interest in, including any financial, security, loan, equity, or management interest, any business in the global pneumatic ice protection market valued over $25 million during the term of this Final Judgment.

B. Such notification shall be provided to the United States in the same format as, and per the instructions relating to, the Notification and Report Form set forth in the Appendix to Part 803 of Title 16 of the Code of Federal Regulations as amended, except that the information requested in Items 5 through 8 of the instructions must be provided only about pneumatic ice protection systems. Notification shall be provided at least thirty (30) calendar days prior to acquiring any such interest, and shall include, beyond what may be required by the applicable instructions, the names of the principal representatives of the parties to the agreement who negotiated the agreement, and any management or strategic plans discussing the proposed transaction. If within the 30-day period after notification, representatives of the United States make a written request for additional information, Defendants shall not consummate the proposed transaction or agreement until thirty (30) calendar days after submitting all such additional information. Early termination of the waiting periods in this Paragraph may be requested and, where appropriate, granted in the same manner as is applicable under the requirements and provisions of the HSR Act and rules promulgated thereunder. Section XII shall be broadly construed and any ambiguity or uncertainty regarding the filing of notice under Section XII shall be resolved in favor of filing notice.

XIII. NO REACQUISITION

Defendants may not reacquire any part of the Divestiture Assets during the term of this Final Judgment. The Acquirer of the Ice Protection Divestiture Assets may not acquire from Defendants during the term of this Final Judgment any assets or businesses that compete with the Ice Protection Divestiture Assets. The Acquirer of the THSA Divestiture Assets may not acquire from Defendants during the term of this Final Judgment any assets or businesses that compete with the THSA Divestiture Assets.

XIV. RETENTION OF JURISDICTION

The Court retains jurisdiction to enable any party to this Final Judgment to apply to the Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify any of its provisions, to enforce compliance, and to punish violations of its provisions.

XV. ENFORCEMENT OF FINAL JUDGMENT

A. The United States retains and reserves all rights to enforce the provisions of this Final Judgment, including the right to seek an order of contempt from the Court. Defendants agree that in any civil contempt action, any motion to show cause, or any similar action brought by the United States regarding an alleged violation of this Final Judgment, the United States may establish a violation of the decree and the appropriateness of any remedy therefor by a preponderance of the evidence, and Defendants waive any argument that a different standard of proof should apply.

B. The Final Judgment should be interpreted to give full effect to the procompetitive purposes of the antitrust laws and to restore all competition harmed by the challenged conduct. Defendants agree that they may be held in contempt of, and that the Court may enforce, any provision of this Final Judgment that, as interpreted by the Court in light of these procompetitive principles and applying ordinary tools of interpretation, is stated specifically and in reasonable detail, whether or not it is clear and unambiguous on its face. In any such interpretation, the terms of this Final Judgment should not be construed against either party as the drafter.

C. In any enforcement proceeding in which the Court finds that Defendants have violated this Final Judgment, the United States may apply to the Court for a one-time extension of this Final Judgment, together with such other relief as may be appropriate. In connection with any successful effort by the United States to enforce this Final Judgment against a Defendant, whether litigated or resolved prior to litigation, that Defendant agrees to reimburse the United States for the fees and expenses of its attorneys, as well as any other costs including experts' fees, incurred in connection with that enforcement effort, including in the investigation of the potential violation.

XVI. EXPIRATION OF FINAL JUDGMENT

Unless the Court grants an extension, this Final Judgment shall expire ten (10) years from the date of its entry, except that after five (5) years from the date of its entry, this Final Judgment may be terminated upon notice by the United States to the Court and Defendants that the divestitures have been completed and that the continuation of the Final Judgment no longer is necessary or in the public interest.

XVII. PUBLIC INTEREST DETERMINATION

Entry of this Final Judgment is in the public interest. The parties have complied with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16, including making copies available to the public of this Final Judgment, the Competitive Impact Statement, any comments thereon, and the United States' responses to comments. Based upon the record before the Court, which includes the Competitive Impact Statement and any comments and responses to comments filed with the Court, entry of this Final Judgment is in the public interest.

Date: _____

Court approval subject to procedures of Antitrust Procedures and Penalties Act, 15 U.S.C. § 16:

Date: _____

United States District Judge

United States District Court For The District of Columbia

United States of America, Plaintiff, v. United Technologies Corporation, and Rockwell Collins, Inc., Defendants.

Case No.: 1:18–cv–02279–RC
JUDGE: Rudolph Contreras
Deck Type: Antitrust

COMPETITIVE IMPACT STATEMENT

Plaintiff United States of America (''United States''), pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (''APPA'' or ''Tunney Act''), 15 U.S.C. § 16(b)–(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. NATURE AND PURPOSE OF THE PROCEEDING

On September 4, 2017, Defendants United Technologies Corporation

(''UTC'') and Rockwell Collins, Inc. (''Rockwell Collins'') entered into an agreement whereby UTC proposes to acquire Rockwell Collins for approximately $30 billion. The United States filed a civil antitrust Complaint against UTC and Rockwell Collins on October 1, 2018, seeking to enjoin the proposed acquisition. The Complaint alleges that the proposed acquisition likely would substantially lessen competition in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18, in the worldwide markets for the development, manufacture, and sale of pneumatic ice protection systems for fixed-wing aircraft (''aircraft'') and trimmable horizontal stabilizer actuators (''THSAs'') for large aircraft. That loss of competition likely would result in increased prices, less favorable contractual terms, and decreased innovation in the markets for these products.

Concurrent with the filing of the Complaint, the United States filed a Hold Separate Stipulation and Order (''Hold Separate'') and proposed Final Judgment, which are designed to eliminate the anticompetitive effects that would have resulted from UTC's acquisition of Rockwell Collins. Under the proposed Final Judgment, which is explained more fully below, Defendants are required to divest assets relating to Rockwell Collins' pneumatic ice protection systems business and its THSA business. Under the Hold Separate, Defendants will take certain steps to ensure that the businesses will operate as competitively independent, economically viable and ongoing business concerns, that will remain independent and uninfluenced by the consummation of the acquisition, and that competition is maintained during the pendency of the ordered divestiture.

The United States and Defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the Final Judgment and to punish violations thereof.

II. DESCRIPTION OF THE EVENTS GIVING RISE TO THE ALLEGED VIOLATIONS

A. The Defendants

UTC is incorporated in Delaware and has its headquarters in Farmington, Connecticut. UTC produces a wide range of products for the aerospace industry and other industries, including, among other products, pneumatic ice protection systems for aircraft and THSAs for large aircraft. In 2017, UTC had sales of approximately $59.8 billion.

Rockwell Collins is incorporated in Delaware and is headquartered in Cedar Rapids, Iowa. Rockwell Collins is a major provider of aerospace and defense electronics systems. Rockwell Collins produces, among other products, pneumatic ice protection systems for aircraft and THSAs for large aircraft. In fiscal year 2017, Rockwell Collins had sales of approximately $6.8 billion.

B. Pneumatic Ice Protection Systems for Aircraft

1. Background

During flight, ice can accumulate on an aircraft's leading edge surfaces, such as the part of the aircraft's wings that first contact the air during flight. Surface ice accumulation affects an aircraft's maneuverability, increases drag, and decreases lift. If it remains untreated, surface ice accumulation can lead to a catastrophic flight event.

A pneumatic ice protection system is engineered to remove accumulated ice on an aircraft's wings. Such a system consists of two main elements, a de-icing boot, which is inflated to crack ice off an aircraft leading edge, and pneumatic system hardware. The pneumatic system hardware consists of equipment designed to control the flow of air into the de-icing boot.

Pneumatic ice protection systems are one form of ice protection technology. The specific design features of an aircraft, such as the availability of electrical power, determine which type of ice protection system will be used on the aircraft. Once an aircraft manufacturer has selected a particular pneumatic ice protection system, that system is certified as an Original Equipment Manufacturer (''OEM'') part for flight worthiness as a part of the aircraft's manufacturing design. Aircraft manufacturers generally only certify one supplier for ice protection systems for a particular aircraft model.

Pneumatic ice protection systems, and components thereof, are also sold in the aftermarket, as their components require repair or replacement after significant use. Most of the revenues related to pneumatic ice protection systems are derived from aftermarket sales. Although generally only one particular pneumatic ice protection system is certified with the aircraft model as original equipment, pneumatic ice protection system suppliers often procure additional certifications that allow their pneumatic ice protection system components to replace their competitors' OEM pneumatic ice protection system in the aftermarket.

Because surface ice accumulation may lead to a catastrophic flight event, pneumatic ice protection systems are considered critical flight components. An aircraft manufacturer or aftermarket purchaser is therefore likely to prefer proven suppliers of pneumatic ice protection systems.

2. Relevant Markets

Pneumatic ice protection systems for aircraft are a relevant product market and line of commerce under Section 7 of the Clayton Act. Ice protection systems are selected at the aircraft design stage based on the characteristics of the aircraft. Pneumatic ice protection systems have numerous attributes (light weight, low cost, and low power requirements) that make them an attractive option for aircraft manufacturers of aircraft with certain design requirements. Certain aircraft models can use only pneumatic ice protection systems. For these customers that produce those models, pneumatic ice protection systems are the best option, as such customers cannot effectively use other types of ice protection systems such as an electrothermal or bleed air ice protection system.

Once an aircraft is certified, switching the ice protection system on a particular model of aircraft to a different type of ice protection system, even if technologically feasible, would require some re-design of the ice protection portion of the aircraft and recertification of the aircraft. Such re-design and recertification may cost millions of dollars, require additional flight testing, and consume multiple years of time. Therefore, a small but significant increase in the price of pneumatic ice protection systems would not cause customers of those ice protection systems to substitute an alternative type of ice protection system for the original aircraft or in the aftermarket in volumes sufficient to make such a price increase unprofitable.

Although the pneumatic ice protection system installed on each type of aircraft may be deemed a separate product market, in each such market there are few competitors. The proposed acquisition of Rockwell Collins by UTC would affect competition for each aircraft pneumatic ice protection system in the same manner. It is therefore appropriate to aggregate pneumatic ice protection markets for purposes of analyzing the effects of the acquisition.

The relevant geographic market for pneumatic ice protection systems for aircraft is worldwide. Pneumatic ice

protection systems are marketed internationally and may be sourced economically from suppliers globally. Transportation costs are a small proportion of the cost of the finished product and thus are not a major factor in supplier selection.

3. Anticompetitive Effects

There are only three competitors in the market for the development, manufacture, and sale of pneumatic ice protection systems for aircraft. These three firms are the only sources for both OEM systems and aftermarket systems and parts. Based on historical sales results, a combined UTC-Rockwell Collins would control a majority share of OEM and aftermarket sales. Therefore, UTC's acquisition of Rockwell Collins would significantly increase concentration in an already highly concentrated market.

UTC and Rockwell Collins compete directly on price. In some cases, one of the companies has replaced the other's pneumatic ice protection system or components thereof on a particular aircraft.

Customers have benefited from the competition between UTC and Rockwell Collins for sales of pneumatic ice protection systems by receiving lower prices, more favorable contractual terms, and shorter delivery times. The combination of UTC and Rockwell Collins would eliminate this competition and its future benefits to customers. Therefore, post-acquisition, UTC likely would have the incentive and the ability to increase prices profitably and offer less favorable contractual terms, resulting in significant harm to aircraft manufacturers and aftermarket customers that require pneumatic ice protection systems.

4. Difficulty of Entry

Sufficient, timely entry of additional competitors into the markets for pneumatic ice protection systems is unlikely to prevent the harm to competition that is likely to result if the proposed acquisition is consummated. The small size of the market makes it difficult for new entrants to recover the cost of entry, which is high in part due to the costs of obtaining certification for new equipment. In addition, opportunities to enter are rare, as new aircraft designs are themselves quite infrequent. Moreover, aircraft manufacturers, operators, and servicers are hesitant to purchase aircraft components from newer suppliers, particularly for critical flight components like ice protection systems.

Pneumatic ice protection systems generally are not built by aircraft manufacturers, in part because pneumatic technology tends to be complicated and technically different from other aircraft systems. As a result, aircraft manufacturers are unlikely to move production of such systems in-house in response to a price increase.

C. Trimmable Horizontal Stabilizer Actuators for Large Aircraft

1. Background

Actuators are responsible for the proper in-flight positions of an aircraft by manipulating the ''control surfaces'' on its wings and tail section. A trimmable horizontal stabilizer actuator (''THSA'') helps an aircraft maintain the proper altitude during flight by adjusting (''trimming'') the angle of the horizontal stabilizer, the control surface of the aircraft's tail responsible for aircraft pitch.

THSAs vary based on the size and type of the aircraft on which they are used. Because large aircraft encounter significantly higher aerodynamic loads than smaller aircraft, THSAs for large aircraft are considerably larger, more complex, and more expensive than those used on smaller aircraft. Large aircraft primarily include commercial aircraft that seat at least six passengers abreast, such as the Airbus A320 and A350 and the Boeing 737 and 787, and military transport aircraft.

2. Relevant Markets

THSAs for large aircraft do not have technical substitutes. Large aircraft manufacturers cannot switch to THSAs for smaller aircraft, or actuators for other aircraft control surfaces, because those products cannot adequately control the lift and manage the load encountered by the horizontal stabilizer of a large aircraft. A small but significant increase in the price of THSAs for large aircraft would not cause aircraft manufacturers to substitute THSAs designed for smaller aircraft or actuators for other control surfaces in volumes sufficient to make such a price increase unprofitable. Accordingly, THSAs for large aircraft are a relevant product market and line of commerce under Section 7 of the Clayton Act.

The relevant geographic market for THSAs for large aircraft is worldwide. THSAs for large aircraft are marketed internationally and may be sourced economically from suppliers globally. Transportation costs are a small proportion of the cost of the finished product and thus are not a major factor in supplier selection.

3. Anticompetitive Effects

UTC and Rockwell Collins are each other's closest competitors for THSAs for large aircraft. UTC and Rockwell Collins have won two of the most significant recent contract awards for THSAs for large aircraft: the Boeing 777X and the Airbus A350. Boeing and Airbus are the world's largest manufacturers of passenger aircraft, and these aircraft represent two of the only three THSA awards by these manufacturers in this century. While there are other producers of THSAs for large aircraft, those firms tend to concentrate most of their THSA business on smaller aircraft, such as business jets or regional jets, or focus on products for other aircraft control surfaces.

UTC and Rockwell Collins each view the other firm as the most significant competitive threat for THSAs for large aircraft. The two companies are among the few that have demonstrated experience in designing and producing THSAs for large aircraft. Each firm considers the other company's offering when planning bids.

Customers have benefitted from the competition between UTC and Rockwell Collins for sales of THSAs for large aircraft by receiving lower prices, more favorable contractual terms, more innovative products, and shorter delivery times. The combination of UTC and Rockwell Collins would eliminate this competition and its future benefits to customers. Post-acquisition, UTC likely would have the incentive and the ability to increase prices profitably and offer less favorable contractual terms.

UTC and Rockwell Collins also invest significantly to remain leading suppliers of new THSAs for large aircraft, and customers expect them to remain leading suppliers of new products in the future. The combination of UTC and Rockwell Collins would likely eliminate this competition, depriving large aircraft customers of the benefit of future innovation and product development.

4. Difficulty of Entry

Sufficient, timely entry of additional competitors into the market for THSAs for large aircraft is unlikely to prevent the harm to competition that is likely to result if the proposed transaction is consummated. Opportunities to enter are limited. Because certification of a THSA is expensive and time-consuming, once a THSA is certified for a particular aircraft type it is rarely replaced in the aftermarket by a different THSA. Accordingly, competition between suppliers of THSAs generally occurs only when an

aircraft manufacturer is designing a new aircraft or an upgraded version of an existing aircraft. New designs for large aircraft are infrequent, as development costs for such aircraft can amount to tens of billions of dollars. As a result, several years usually pass between contract awards for THSAs for a new aircraft design.

Potential entrants face several additional obstacles. First, manufacturers of large aircraft are more likely to purchase THSAs from those firms already supplying THSAs for other large aircraft. The important connection between THSAs and aircraft safety drives aircraft manufacturers toward suppliers experienced with production of THSAs of the relevant type and size. While some companies may have demonstrated experience in THSAs for smaller aircraft or in other actuators, such experience is not considered by customers to be as relevant as experience in THSAs for large aircraft. A new entrant would face significant costs and time to be considered as a potential alternative to the existing suppliers.

Developing a THSA for large aircraft is technically difficult. Manufacturers of THSAs for smaller aircraft face significant technical hurdles in designing and developing THSAs for large aircraft. As aerodynamic loads are a major design consideration for THSAs, and such loads are tightly correlated with the size of the aircraft, THSAs for large aircraft present more demanding technical challenges than those for smaller aircraft.

Substantial time and significant financial investment would be required for a company to design and develop a THSA for large aircraft. Companies that already make other types of THSAs would require years of effort and an investment of many millions of dollars to develop a product that is competitive with those offered by existing large aircraft THSA suppliers.

As a result of these barriers, entry into the market for THSAs for large aircraft would not be timely, likely, or sufficient to defeat the substantial lessening of competition that likely would result from UTC's acquisition of Rockwell Collins.

III. EXPLANATION OF THE PROPOSED FINAL JUDGMENT

The divestitures required by the proposed Final Judgment will eliminate the anticompetitive effects that likely would result from UTC's acquisition of Rockwell Collins. The assets must be divested in such a way as to satisfy the United States in its sole discretion that the assets can and will be operated by the purchaser as a viable, ongoing business that can compete effectively in the relevant market. Defendants must take all reasonable steps necessary to accomplish the divestitures quickly and shall cooperate with prospective purchasers.

A. Divestitures

1. Pneumatic Ice Protection Systems for Aircraft

a. The Divestiture

The proposed Final Judgment requires Defendants to divest Rockwell Collins' SMR Technologies division, including Rockwell Collins' business in the development, manufacture, and sale of pneumatic ice protection systems and other ice protection products (the ''Ice Protection Divestiture Assets'') to an Acquirer acceptable to the United States, in its sole discretion.[1] The assets to be divested include Rockwell Collins' facility located in Fenwick, West Virginia, and all tangible and intangible assets primarily related to the ice protection business. The divestiture of the ice protection business will provide the Acquirer with all the assets it needs to successfully develop, manufacture, and sell pneumatic ice protection systems for aircraft.

Paragraph IV(A) of the proposed Final Judgment requires Defendants to divest the Ice Protection Divestiture Assets as a viable ongoing business within the later of five (5) calendar days after notice of entry of this Final Judgment by the Court or fifteen (15) calendar days after Required Regulatory Approvals have been received.

b. Transition Services Agreement

To facilitate the Acquirer's immediate use of the Ice Protection Divestiture Assets, the proposed Final Judgment provides the Acquirer with the option to enter into a transition services agreement with Defendants to obtain back office and information technology services and support for the Ice Protection Divestiture Assets for a period of up to twelve (12) months. The United States, in its sole discretion, may approve one or more extensions of this agreement for a total of up to an additional twelve (12) months.

2. THSAs for Large Aircraft

a. The Divestiture

The proposed Final Judgment requires Defendants to divest Rockwell Collins' business in the design, development, manufacture, sale, service, or distribution of THSAs (the ''THSA Divestiture Assets'') to an Acquirer acceptable to the United States, in its sole discretion.[2] Because the assets are distributed among multiple sites in two countries, the United States required an upfront buyer to provide additional certainty that the transition can be accomplished without disruption to the business. The United States has approved Safran S.A. as the Acquirer. Safran S.A. is an established aerospace industry supplier.

The assets to be divested include two Rockwell Collins' facilities (Building 518 in Irvine, California and Building 1 in Mexicali, Mexico), and, at the option of the Acquirer, three additional facilities (Building 517 in Irvine, Building 2 in Mexicali, and Building 213 in Melbourne, Florida). The option of acquiring the latter three facilities is designed to allow the Acquirer to consolidate facilities if needed. The THSA Divestiture Assets also include all tangible and intangible assets primarily related to or necessary for the operation of the THSA business. Regardless of whether particular assets have been primarily used for the THSA business, all assets necessary to successfully develop, manufacture, and sell THSAs must be conveyed with the divestiture.

The proposed Final Judgment provides that, at the option of the Acquirer of the THSA Divestiture Assets, and subject to the review and approval of the United States, Building 518 may be transferred via a sublease in lieu of a divestiture. Rockwell Collins currently holds a single lease on Buildings 517 and 518, and this provision allows the Acquirer to use Building 518 without assuming responsibility for both properties.

In addition, Defendants are required to use reasonable best efforts to obtain approvals required from United States government customers for the transfer of certain proprietary contracts. If the necessary approvals cannot be obtained, Defendants may retain those contracts and portions thereof that cannot be subcontracted to the Acquirer, as well as those tangible and intangible assets that have been used exclusively in the performance of those contracts.

Paragraph V(A) of the proposed Final Judgment requires Defendants to divest the THSA Divestiture Assets as a viable ongoing business within the later of five

[1] In addition to pneumatic ice protection systems, the Ice Protection Divestiture Assets include other ice protection products, fueling systems and other industrial products, hovercraft skirts, composites, and commercial aviation products.

[2] In addition to THSAs for large aircraft, the THSA Divestiture Assets also include legacy flap actuation, nose wheel steering gear boxes, and pilot control systems, including center yokes, rudder brake pedal units, throttle quadrant assemblies, auto-throttles, and control stand modules.

(5) calendar days after notice of entry of this Final Judgment by the Court or fifteen (15) calendar days after Required Regulatory Approvals have been received.

b. Transition Services Agreement and Transition Obligation

To facilitate the transfer of the divestiture assets between facilities without a supply interruption, the proposed Final Judgment provides the Acquirer of the THSA Divestiture Assets with the option to enter into a transition services agreement with Defendants to obtain services related to facility management and upkeep, facility and asset transition, government compliance, accounting and finance, information technology and human resources for the THSA Divestiture Assets for a period of up to twelve (12) months. The United States, in its sole discretion, may approve one or more extensions of this agreement for a total of up to an additional twelve (12) months. Defendants must use their best efforts to assist the Acquirer with the transition of the THSA Divestiture Assets to locations of the Acquirer's choosing and to not impede that transition.

c. Supply Agreement

Under the proposed Final Judgment, the Acquirer of the THSA Divestiture Assets has the option to obtain a supply agreement from Defendants to provide services related to the manufacture of THSA components in Melbourne, Florida and Cedar Rapids, Iowa sufficient to meet all or part of the Acquirer's needs for a period of up to twelve months. The United States, in its sole discretion, may approve one or more extensions of this agreement for a total of up to an additional twelve (12) months. This supply agreement may be necessary to permit the Acquirer to fill existing orders during the time period that manufacturing is being transitioned to other facilities. This is necessary due to the extended manufacturing process and the long lead time required for many components, and acceptable given that these assets will be dedicated to filling existing contracts that are unlikely to be subject to competition during the pendency of this supply agreement.

B. Other Provisions

1. Use of Divestiture Trustee

In the event that Defendants do not accomplish the divestitures within the specified time periods, Section VI of the proposed Final Judgment provides that the Court will appoint a trustee selected by the United States to effect the divestiture. If a trustee is appointed, the proposed Final Judgment provides that Defendants will pay all costs and expenses of the trustee. The trustee's commission will be structured so as to provide an incentive for the trustee based on the price obtained and the speed with which the divestiture is accomplished. After his or her appointment becomes effective, the trustee will file monthly reports with the Court and the United States setting forth his or her efforts to accomplish the divestiture. At the end of six months, if the divestiture has not been accomplished, the trustee and the United States will make recommendations to the Court, which shall enter such orders as are appropriate to carry out the purpose of the trust, including extending the trust or the term of the trustee's appointment.

2. Prohibition on Reacquisition

Section XIII of the proposed Final Judgment prohibits Defendants from reacquiring any part of the Divestiture Assets during the term of the Final Judgment. In addition, this section prohibits an Acquirer from acquiring from Defendants during the term of the Final Judgment any assets or businesses that compete with the assets acquired by that Acquirer.

3. Notification

Section XII of the proposed Final Judgment requires Defendants to provide notification to the Antitrust Division of certain proposed acquisitions not otherwise subject to filing under the Hart-Scott-Rodino Act, 15 U.S.C. 18a (the ''HSR Act'') in the format and pursuant to the instructions provided under that statute for notification. The notification requirement applies in the case of any direct or indirect acquisitions of any assets of or interest in any entity engaged in the development, manufacture, or sale of pneumatic ice protection systems valued over $25 million. Section XII further provides for waiting periods and opportunities for the United States to obtain additional information similar to the provisions of the HSR Act before such acquisitions can be consummated.

4. Compliance and Enforcement Provisions

The proposed Final Judgment also contains provisions designed to promote compliance and make the enforcement of Division consent decrees as effective as possible. Paragraph XV(A) provides that the United States retains and reserves all rights to enforce the provisions of the proposed Final Judgment, including its rights to seek an order of contempt from the Court. Under the terms of this paragraph, Defendants have agreed that in any civil contempt action, any motion to show cause, or any similar action brought by the United States regarding an alleged violation of the Final Judgment, the United States may establish the violation and the appropriateness of any remedy by a preponderance of the evidence and that Defendants have waived any argument that a different standard of proof should apply. This provision aligns the standard for compliance obligations with the standard of proof that applies to the underlying offense that the compliance commitments address.

Paragraph XV(B) provides additional clarification regarding the interpretation of the provisions of the proposed Final Judgment. The proposed Final Judgment was drafted to restore all competition that would otherwise be harmed by the merger. Defendants agree that they will abide by the proposed Final Judgment, and that they may be held in contempt of this Court for failing to comply with any provision of the proposed Final Judgment that is stated specifically and in reasonable detail, as interpreted in light of this procompetitive purpose.

Paragraph XV(C) further provides that should the Court find in an enforcement proceeding that Defendants have violated the Final Judgment, the United States may apply to the Court for a one-time extension of the Final Judgment, together with such other relief as may be appropriate. In addition, in order to compensate American taxpayers for any costs associated with the investigation and enforcement of violations of the proposed Final Judgment, in any successful effort by the United States to enforce the Final Judgment against a Defendant, whether litigated or resolved prior to litigation, that Defendant agrees to reimburse the United States for attorneys' fees, experts' fees, or costs incurred in connection with any enforcement effort, including the investigation of the potential violation.

Finally, Section XVI provides that the Final Judgment shall expire ten years from the date of its entry, except that after five years from the date of its entry, the Final Judgment may be terminated upon notice by the United States to the Court and Defendants that the divestitures have been completed and that the continuation of the Final Judgment is no longer necessary or in the public interest.

IV. REMEDIES AVAILABLE TO POTENTIAL PRIVATE LITIGANTS

Section 4 of the Clayton Act, 15 U.S.C. § 15, provides that any person

who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. § 16(a), the proposed Final Judgment has no *prima facie* effect in any subsequent private lawsuit that may be brought against Defendants.

V. PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED FINAL JUDGMENT

The United States and Defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least sixty (60) days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty (60) days of the date of publication of this Competitive Impact Statement in the **Federal Register**, or the last date of publication in a newspaper of the summary of this Competitive Impact Statement, whichever is later. All comments received during this period will be considered by the United States Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to the Court's entry of judgment. The comments and the response of the United States will be filed with the Court. In addition, comments will be posted on the U.S. Department of Justice, Antitrust Division's internet website, and, under certain circumstances, published in the **Federal Register**.

Written comments should be submitted to:

Maribeth Petrizzi, Chief, Defense, Industrials, and Aerospace Section, Antitrust Division, United States Department of Justice, 450 Fifth Street NW, Suite 8700, Washington, DC 20530

The proposed Final Judgment provides that the Court retains jurisdiction over this action and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. ALTERNATIVES TO THE PROPOSED FINAL JUDGMENT

The United States considered, as an alternative to the proposed Final Judgment, a full trial on the merits against Defendants. The United States could have continued the litigation and sought preliminary and permanent injunctions preventing UTC's acquisition of Rockwell Collins. The United States is satisfied, however, that the divestiture of the assets described in the proposed Final Judgment will preserve competition for the development, manufacture, and sale of pneumatic ice protection systems for aircraft and THSAs for large aircraft. Thus, the proposed Final Judgment would achieve all or substantially all of the relief the United States would have obtained through litigation, but avoids the time, expense, and uncertainty of a full trial on the merits of the Complaint.

VII. STANDARD OF REVIEW UNDER THE APPA FOR THE PROPOSED FINAL JUDGMENT

The Clayton Act, as amended by the APPA, requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty-day comment period, after which the court shall determine whether entry of the proposed Final Judgment ''is in the public interest.'' 15 U.S.C. § 16(e)(1). In making that determination, the court, in accordance with the statute as amended in 2004, is required to consider:

> (A) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and
>
> (B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. § 16(e)(1)(A) & (B). In considering these statutory factors, the court's inquiry is necessarily a limited one as the government is entitled to ''broad discretion to settle with the defendant within the reaches of the public interest.'' *United States v. Microsoft Corp.,* 56 F.3d 1448, 1461 (D.C. Cir. 1995); *see generally United States v. SBC Commc'ns, Inc.,* 489 F. Supp. 2d 1 (D.D.C. 2007) (assessing public interest standard under the Tunney Act); *United States v. U.S. Airways Group, Inc.,* 38 F. Supp. 3d 69, 75 (D.D.C. 2014) (noting the court has broad discretion of the adequacy of the relief at issue); *United States v. InBev N.V./S.A.,* No. 08–1965 (JR), 2009–2 Trade Cas. (CCH) ¶ 76,736, 2009 U.S. Dist. LEXIS 84787, at *3, (D.D.C. Aug. 11, 2009) (noting that the court's review of a consent judgment is limited and only inquires ''into whether the government's determination that the proposed remedies will cure the antitrust violations alleged in the complaint was reasonable, and whether the mechanism to enforce the final judgment are clear and manageable.'').[3]

As the United States Court of Appeals for the District of Columbia Circuit has held, under the APPA a court considers, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. *See Microsoft,* 56 F.3d at 1458–62. With respect to the adequacy of the relief secured by the decree, a court may not ''engage in an unrestricted evaluation of what relief would best serve the public.'' *United States v. BNS, Inc.,* 858 F.2d 456, 462 (9th Cir. 1988) (quoting *United States v. Bechtel Corp.,* 648 F.2d 660, 666 (9th Cir. 1981)); *see also Microsoft,* 56 F.3d at 1460–62; *United States v. Alcoa, Inc.,* 152 F. Supp. 2d 37, 40 (D.D.C. 2001); *InBev,* 2009 U.S. Dist. LEXIS 84787, at *3. Courts have held that:

> [t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a

[3] The 2004 amendments substituted ''shall'' for ''may'' in directing relevant factors for court to consider and amended the list of factors to focus on competitive considerations and to address potentially ambiguous judgment terms. *Compare* 15 U.S.C. § 16(e) (2004), *with* 15 U.S.C. § 16(e)(1) (2006); *see also SBC Commc'ns,* 489 F. Supp. 2d at 11 (concluding that the 2004 amendments ''effected minimal changes'' to Tunney Act review).

particular decree is the one that will best serve society, but whether the settlement is ''*within the reaches of the public interest.*'' More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.

Bechtel, 648 F.2d at 666 (emphasis added) (citations omitted).[4] In determining whether a proposed settlement is in the public interest, a district court ''must accord deference to the government's predictions about the efficacy of its remedies, and may not require that the remedies perfectly match the alleged violations.'' *SBC Commc'ns,* 489 F. Supp. 2d at 17; *see also U.S. Airways,* 38 F. Supp. 3d at 75 (noting that a court should not reject the proposed remedies because it believes others are preferable); *Microsoft,* 56 F.3d at 1461 (noting the need for courts to be ''deferential to the government's predictions as to the effect of the proposed remedies''); *United States v. Archer-Daniels-Midland Co.,* 272 F. Supp. 2d 1, 6 (D.D.C. 2003) (noting that the court should grant due respect to the United States' prediction as to the effect of proposed remedies, its perception of the market structure, and its views of the nature of the case).

Courts have greater flexibility in approving proposed consent decrees than in crafting their own decrees following a finding of liability in a litigated matter. ''[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.' '' *United States v. Am. Tel. & Tel. Co.,* 552 F. Supp. 131, 151 (D.D.C. 1982) (citations omitted) (quoting *United States v. Gillette Co.,* 406 F. Supp. 713, 716 (D. Mass. 1975)), *aff'd sub nom. Maryland v. United States,* 460 U.S. 1001 (1983); *see also U.S. Airways,* 38 F. Supp. 3d at 74 (noting that room must be made for the government to grant concessions in the negotiation process for settlements (citing *Microsoft,* 56 F.3d at 1461)); *United States v. Alcan Aluminum Ltd.,* 605 F. Supp. 619, 622 (W.D. Ky. 1985) (approving the consent decree even though the court would have imposed a greater remedy). To meet this standard, the United States ''need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms.'' *SBC Commc'ns,* 489 F. Supp. 2d at 17.

Moreover, the court's role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its Complaint, and does not authorize the court to ''construct [its] own hypothetical case and then evaluate the decree against that case.'' *Microsoft,* 56 F.3d at 1459; *see also U.S. Airways,* 38 F. Supp. 3d at 74 (noting that the court must simply determine whether there is a factual foundation for the government's decisions such that its conclusions regarding the proposed settlements are reasonable; *InBev,* 2009 U.S. Dist. LEXIS 84787, at *20 (''the 'public interest' is not to be measured by comparing the violations alleged in the complaint against those the court believes could have, or even should have, been alleged''). Because the ''court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place,'' it follows that ''the court is only authorized to review the decree itself,'' and not to ''effectively redraft the complaint'' to inquire into other matters that the United States did not pursue. *Microsoft,* 56 F.3d at 1459–60. As this Court recently confirmed in *SBC Communications,* courts ''cannot look beyond the complaint in making the public interest determination unless the complaint is drafted so narrowly as to make a mockery of judicial power.'' *SBC Commc'ns,* 489 F. Supp. 2d at 15.

In its 2004 amendments, Congress made clear its intent to preserve the practical benefits of utilizing consent decrees in antitrust enforcement, adding the unambiguous instruction that ''[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene.'' 15 U.S.C. § 16(e)(2); *see also U.S. Airways,* 38 F. Supp. 3d at 75 (indicating that a court is not required to hold an evidentiary hearing or to permit intervenors as part of its review under the Tunney Act). The language wrote into the statute what Congress intended when it enacted the Tunney Act in 1974, as Senator Tunney explained: ''[t]he court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.'' 119 Cong. Rec. 24,598 (1973) (statement of Sen. Tunney). Rather, the procedure for the public interest determination is left to the discretion of the court, with the recognition that the court's ''scope of review remains sharply proscribed by precedent and the nature of Tunney Act proceedings.'' SBC Commc'ns, 489 F. Supp. 2d at 11.[5] A court can make its public interest determination based on the competitive impact statement and response to public comments alone. *U.S. Airways,* 38 F. Supp. 3d at 75.

VIII. DETERMINATIVE DOCUMENTS

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

Dated: October 10, 2018

Respectfully submitted,

SOYOUNG CHOE *
Defense, Industrials, and Aerospace Section, Antitrust Division, 450 Fifth Street NW, Suite 8700, Washington, DC 20530, Telephone: (202) 598–2436, Facsimile: (202) 514–9033, soyoung.choe@usdoj.gov
* Attorney of Record

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BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—UHD Alliance, Inc.

Notice is hereby given that, on September 6, 2018, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), UHD Alliance, Inc. (''UHD Alliance'') filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions

[4] *Cf. BNS,* 858 F.2d at 464 (holding that the court's ''ultimate authority under the [APPA] is limited to approving or disapproving the consent decree''); *United States* v. *Gillette Co.,* 406 F. Supp. 713, 716 (D. Mass. 1975) (noting that, in this way, the court is constrained to ''look at the overall picture not hypercritically, nor with a microscope, but with an artist's reducing glass''). *See generally Microsoft,* 56 F.3d at 1461 (discussing whether ''the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest'').

[5] *See United States v. Enova Corp.,* 107 F. Supp. 2d 10, 17 (D.D.C. 2000) (noting that the ''Tunney Act expressly allows the court to make its public interest determination on the basis of the competitive impact statement and response to comments alone''); *United States v. Mid-Am. Dairymen, Inc.,* No. 73–CV–681–W–1, 1977–1 Trade Cas. (CCH) ¶ 61,508, at 71,980, *22 (W.D. Mo. 1977) (''Absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should . . . carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.''); S. Rep. No. 93–298, at 6 (1973) (''Where the public interest can be meaningfully evaluated simply on the basis of briefs and oral arguments, that is the approach that should be utilized.'').

limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, HP Inc., Houston, TX; and Quatius Ltd., Kwai Chung, HONG KONG–CHINA, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and UHD Alliance intends to file additional written notifications disclosing all changes in membership.

On June 17, 2015, UHD Alliance filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on July 17, 2015 (80 FR 42537).

The last notification was filed with the Department on June 7, 2018. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on July 9, 2018 (83 FR 31775).

Suzanne Morris,

Chief, Premerger and Division Statistics Unit, Antitrust Division.

[FR Doc. 2018–22543 Filed 10–16–18; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. CVS Health Corporation and Aetna Inc.; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a proposed Final Judgment, Stipulation, and Competitive Impact Statement have been filed with the United States District Court for the District of Columbia in *United States of America v. CVS Health Corporation and Aetna Inc.,* Civil Action No. 1:18–cv–02340. On October 10, 2018, the United States filed a Complaint alleging that CVS Health Corporation's proposed acquisition of Aetna Inc. would violate Section 7 of the Clayton Act, 15 U.S.C. 18. The proposed Final Judgment, filed at the same time as the Complaint, requires the merging parties to divest Aetna's individual prescription drug plan business.

Copies of the Complaint, proposed Final Judgment, and Competitive Impact Statement are available for inspection on the Antitrust Division's website at *http://www.justice.gov/atr* and at the Office of the Clerk of the United States District Court for the District of Columbia. Copies of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Public comment is invited within 60 days of the date of this notice. Such comments, including the name of the submitter, and responses thereto, will be posted on the Antitrust Division's website, filed with the Court, and, under certain circumstances, published in the **Federal Register**. Comments should be directed to Peter Mucchetti, Chief, Healthcare and Consumer Products Section, Antitrust Division, Department of Justice, 450 Fifth Street NW, Suite 4100, Washington, DC 20530 (telephone: 202–307–0001).

Patricia A. Brink,

Director of Civil Enforcement.

United States District Court for the District of Columbia

United States Of America, U.S. Department of Justice, Antitrust Division, 450 5th Street NW, Suite 4100, Washington, DC 20530, State of California, 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102, State of Florida, PL–01, The Capitol, Tallahassee, FL 32399–1050, State of Hawaii, 425 Queen Street, Honolulu, HI 96813, State of Mississippi, P.O. Box 22947, Jackson, MS 39225, and *State of Washington, 800 Fifth Avenue, Suite 2000, Seattle, WA 98104–3188,* Plaintiffs, v., *CVS Health Corporation, 1 CVS Drive, Woonsocket, RI 02895,* and *AETNA Inc., 151 Farmington Avenue, Hartford, CT 06156,* Defendants.

Case No. 1:18–cv–02340
Judge Richard J. Leon

COMPLAINT

The United States of America, acting under the direction of the Attorney General of the United States, and the States of California, Florida, Hawaii, Mississippi, and Washington (''Plaintiff States''), bring this civil antitrust action to prevent CVS Health Corporation from acquiring Aetna Inc.

I. Introduction

1. CVS's proposed $69 billion acquisition of Aetna would combine two of the country's leading sellers of individual prescription drug plans, also known as individual PDPs. More than 20 million individual beneficiaries—primarily seniors and persons with disabilities—rely on these government-sponsored plans for prescription drug insurance coverage. Competition between CVS and Aetna to sell individual PDPs has resulted in lower premiums, better service, and more innovative products. The proposed acquisition would eliminate this valuable competition, harming beneficiaries, taxpayers, and the federal government, which pays for a large portion of beneficiaries' prescription drug coverage.

2. While CVS and Aetna compete throughout the United States, they are particularly strong in 16 geographic regions established by the Centers for Medicare & Medicaid Services (''CMS''). In these 16 regions, over 9.3 million people are enrolled in individual PDPs. Competition between CVS and Aetna is particularly important in these regions because they compete for similar customers by lowering prices and improving products. Moreover, they are two of the largest and fastest-growing competitors. Individuals in these 16 regions will experience harm, including price increases and quality reductions, from the loss of competition between CVS and Aetna.

3. Because the transaction likely would substantially lessen competition between CVS and Aetna for individual PDPs in these 16 regions, the proposed acquisition violates Section 7 of the Clayton Act, 15 U.S.C. § 18, and should be enjoined.

II. Background

A. Medicare Drug Coverage

4. Medicare is a federal program that provides health insurance to qualified beneficiaries. Medicare offers coverage for outpatient prescription drugs under the Medicare Part D program, which harnesses competition between private insurance companies in order to lower prescription drug costs for Medicare beneficiaries and taxpayers, enhance plan designs, and improve quality of coverage.

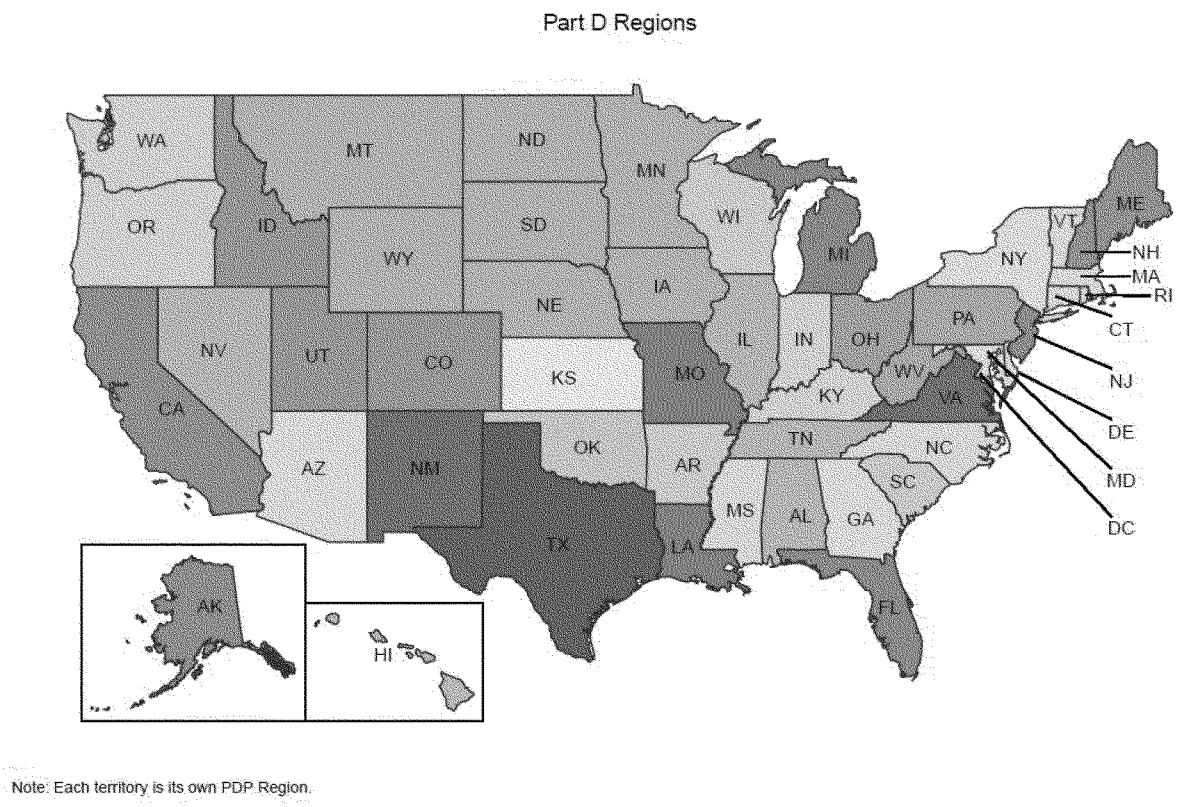
5. Medicare beneficiaries obtain individual drug coverage in two main ways, depending on the type of medical insurance they have. Beneficiaries enrolled in Original Medicare, a fee-for-service program offered directly through the federal government, can enroll in a standalone individual PDP. Beneficiaries enrolled in Medicare Advantage, a type of private insurance offered by companies that contract with the federal government, can enroll in a plan that includes drug coverage.

6. No matter how beneficiaries obtain Medicare drug coverage, the federal government subsidizes the cost of that coverage. As explained in greater detail below, the federal government also provides additional subsidies to low-income beneficiaries under the low-income subsidy (''LIS'') program.

B. Individual PDPs

7. Individual PDPs provide beneficiaries with insurance coverage for a set of prescription drugs (the ''formulary''), a network of pharmacies where beneficiaries may fill prescriptions, and a set schedule of defined premiums and cost-sharing rates.

8. To offer individual PDPs, insurers must be approved by CMS. CMS has divided the 50 states and the District of Columbia into 34 Part D regions. To offer an individual PDP in a Part D region, the insurer must offer the plan at the same price to all individuals in the region and have a pharmacy network that is adequate to serve individuals throughout the region. No Part D region is smaller than a state, and some Part D regions encompass multiple contiguous states. Beneficiaries can enroll only in individual PDPs offered in the Part D region where they reside. The following map shows the Part D regions:



9. Within each Part D region, an insurer may generally offer up to three individual PDPs. An insurer must offer one ''basic'' individual PDP that is actuarially equivalent to the minimum coverage required by statute but may vary in terms of premiums, deductibles, formularies, and pharmacy networks. Insurers may also offer up to two ''enhanced'' individual PDPs that provide additional coverage compared to the insurer's basic individual PDP.

10. Individual PDPs vary in terms of premiums, cost sharing, drug formularies, pharmacy networks, and other characteristics. Insurers can use these different plan designs to target different types of Medicare beneficiaries based on their health, income, price sensitivity, and other factors.

11. Each fall, Medicare has an annual open-enrollment period in which beneficiaries may change their individual PDP. When comparing plans, beneficiaries consider a number of factors, including premiums, cost sharing, whether their drugs are on the formulary, and whether their preferred pharmacies are in network.

C. The Low-Income Subsidy Program

12. Most low-income beneficiaries do not have to pay a premium for their individual PDP because Medicare pays their premium up to a certain threshold called the ''LIS benchmark.'' Under CMS rules, beneficiaries eligible for the low-income subsidy who do not affirmatively select an individual PDP or a Medicare Advantage plan (''auto-enrollees'') are automatically enrolled in a basic individual PDP, but only one that has premiums set below the regional LIS benchmark. These auto-enrollees are assigned in proportion to the number of basic plans below the LIS benchmark. For example, if three basic individual PDPs are below the LIS benchmark in a Part D region, then each plan receives a third of new auto-enrollees in that region.

13. The LIS benchmark has important consequences for insurers. As long as an insurer's individual PDP remains below the LIS benchmark each year, the plan keeps its existing auto-enrollees and is eligible to receive a portion of new auto-enrollees. If an insurer's basic individual PDP is priced over the LIS benchmark, however, then it generally loses all of its auto-enrollees and is not eligible to receive any new auto-enrollees that year. The one exception is when an insurer's monthly premium is within a *de minimis* amount, currently $2, above the LIS benchmark, in which case the insurer can keep its auto-enrollees if it waives the premium amount above the LIS benchmark, but the insurer is not eligible to receive any new auto-enrollees. If an insurer loses its auto-enrollees, its beneficiaries are reassigned to an individual PDP below the LIS benchmark in the same manner that new auto-enrollees are assigned.

14. As with the Part D program generally, the LIS program is designed to promote competition between insurers to lower costs for beneficiaries and taxpayers.

III. The Defendants and the Merger

15. CVS, based in Woonsocket, Rhode Island, is one of the largest companies in the United States. It operates the nation's largest retail pharmacy chain; owns a large pharmacy benefit manager called Caremark; and is the nation's second-largest provider of individual PDPs, with over 4.8 million members. CVS offers individual PDPs under the brand name SilverScript in all 50 states and the District of Columbia. In 2017, CVS earned revenues of approximately $185 billion.

16. Aetna, based in Hartford, Connecticut, is the nation's third-largest health-insurance company and fourth-largest individual PDP insurer, with over 2 million individual PDP members. Like CVS, Aetna offers individual PDPs in all 50 states and the District of Columbia. In 2017, the company earned revenues of $60 billion.

17. On December 3, 2017, CVS agreed to acquire Aetna for approximately $69 billion.

IV. Jurisdiction and Venue

18. The United States brings this action, and this Court has subject-matter jurisdiction over this action, under Section 15 of the Clayton Act, 15 U.S.C. § 25, to prevent and restrain the defendants from violating Section 7 of the Clayton Act, 15 U.S.C. § 18.

19. The Plaintiff States bring this action under Section 16 of the Clayton Act, 15 U.S.C. § 26, to prevent and restrain the defendants from violating Section 7 of the Clayton Act, 15 U.S.C. § 18. The Plaintiff States, by and through their respective Attorneys General, bring this action as parens patriae on behalf of and to protect the health and welfare of their citizens and the general economy of each of their states.

20. Defendants are engaged in, and their activities substantially affect, interstate commerce. CVS and Aetna sell individual PDPs, as well as other products and services, to numerous customers located throughout the United States and that insurance covers beneficiaries when they travel across state lines.

21. This Court has personal jurisdiction over each defendant under Section 12 of the Clayton Act, 15 U.S.C. § 22. CVS and Aetna both transact business in this District.

22. Venue is proper in this District under Section 12 of the Clayton Act, 15 U.S.C. § 22, and under 28 U.S.C. § 1391. Defendants have also consented to venue and personal jurisdiction in the District of Columbia.

V. The Relevant Markets

A. The Sale of Individual PDPs Is a Relevant Market

23. The sale of individual PDPs is a relevant market and line of commerce under Section 7 of the Clayton Act.

24. For the vast majority of beneficiaries enrolled in individual PDPs, the main alternative for prescription drug coverage—Medicare Advantage plans that include drug coverage—is not a close substitute. Beneficiaries who have enrolled in an individual PDP have, by definition, chosen Original Medicare over Medicare Advantage. These beneficiaries rarely switch between the two programs, and they are even less likely to switch to obtain alternative prescription drug coverage. Indeed, only about two percent of individual PDP members convert to Medicare Advantage plans each year during open enrollment, and an even smaller percentage of individuals convert from Medicare Advantage plans to individual PDPs.

25. Because Medicare Advantage is not a close substitute for beneficiaries enrolled in individual PDPs, CVS, Aetna, and other industry participants treat individual PDPs as distinct from other products. For example, CVS offers individual PDPs but does not offer Medicare Advantage plans. Insurers that offer Medicare Advantage plans and individual PDPs, including Aetna, separately monitor and report their individual PDP enrollment, premiums, benefits, market share, and financial performance, both internally and to investors.

26. For these reasons, individual PDPs satisfy the well-accepted ''hypothetical monopolist'' test set forth in the U.S. Department of Justice and Federal Trade Commission's *2010 Horizontal Merger Guidelines.* A hypothetical monopolist selling all individual PDPs would likely impose a small but significant and non-transitory price increase because an insufficient number of beneficiaries would switch to alternatives to make that price increase unprofitable.

B. The relevant geographic markets are 16 Part D regions.

27. As noted, a Medicare beneficiary may enroll only in the individual PDPs that CMS has approved in the Part D region where the beneficiary resides. Therefore, competition in each Part D region is limited to the insurers that CMS has approved to operate in that region.

28. For the same reason, a hypothetical monopolist selling individual PDPs in a specific Part D region could profitably impose a small but significant and non-transitory price increase because an insufficient number of beneficiaries would or could switch to alternatives outside the Part D region to make that price increase unprofitable.

29. As explained below, the proposed acquisition would likely harm competition in 16 of the 34 Part D regions: Arkansas, California, Florida, Georgia, Hawaii, Kansas, Louisiana, Mississippi, Missouri, New Mexico, North Carolina, Ohio, Oklahoma, South Carolina, Wisconsin, and the multistate region of Iowa, Minnesota, Montana, Nebraska, North Dakota, South Dakota, and Wyoming. Each of these Part D regions is a relevant geographic market for the sale of individual PDPs.

VI. CVS's acquisition of Aetna will substantially lessen competition in the sale of individual PDPs in 16 Part D regions.

30. Consumers will be harmed by the transaction in 16 Part D regions covering 22 states. Over 9.3 million people are enrolled in individual PDPs in the 16 regions, 3.5 million of whom have coverage from CVS or Aetna.

31. The proposed acquisition would substantially lessen competition and harm consumers by eliminating significant head-to-head competition between CVS and Aetna. Indeed, throughout the country, CVS and Aetna have been close competitors. For example, in 2016 and 2018, CVS found that individuals leaving its individual PDPs went to Aetna more often than to any other competitor. CVS's and Aetna's individual PDPs are also among the fastest growing individual PDPs, with new-to-Medicare enrollees choosing CVS and Aetna plans at rates higher than their current market shares.

32. CVS and Aetna have sought to win individual PDP customers in various ways. For example, CVS and Aetna routinely consider each other's prices and formularies when setting prices and coverage amounts for their plans. This price competition between CVS and Aetna drives them to lower premiums, copayments, coinsurance, and deductibles.

33. CVS and Aetna have also sought to win individual PDP customers from each other by improving the quality of their services and coverage. This competition has led the companies to improve drug formularies, offer more attractive pharmacy networks, and create enhanced benefits for individuals. For example, in recent years, Aetna has made several changes to improve the coverage of its formulary and pharmacy networks to win business from CVS. That competition gave beneficiaries access to certain drugs at more affordable prices.

34. In 12 Part D regions—Arkansas, California, Florida, Georgia, Hawaii, Kansas, Louisiana, Mississippi, Missouri, New Mexico, Ohio, and South Carolina—CVS and Aetna will account for at least 35 percent of individual PDP enrollment in highly concentrated markets, making the merger presumptively anticompetitive. *See United States v. Anthem, Inc.,* 855 F.3d 345, 349 (D.C. Cir. 2017) (holding that market concentration can establish a presumption of anticompetitive effects).

35. In five of these Part D regions (Arkansas, Georgia, Kansas, Mississippi, Missouri), as well as four additional regions (North Carolina, Oklahoma, Wisconsin, and the multistate region of Iowa, Minnesota, Montana, Nebraska, North Dakota, South Dakota, and Wyoming), the merged company will account for 35 percent or more of LIS-eligible beneficiaries. When combined with other market factors, this share of low-income subsidiary beneficiaries will likely result in an additional loss of competition. Competition between CVS and Aetna in these regions has led them to lower premiums to be below the regional LIS benchmarks and *de minimis* thresholds and thus qualify for LIS auto-enrollees. These lower premiums have in turn led to lower regional LIS benchmarks because the LIS benchmarks are based on the premiums that CVS, Aetna, and other companies receive for providing Medicare drug coverage. Lower LIS benchmarks reduce taxpayer costs and costs to non-LIS beneficiaries who choose to enroll in these plans.

36. If CVS acquires Aetna, these valuable forms of competition will be lost, resulting in higher premiums for consumers and lower-quality services. In addition, because the LIS benchmark is calculated as an LIS-enrollment-weighted-average for each individual PDP region, in Part D regions where CVS and Aetna have a high percentage of LIS enrollees, the merged company would have a greater ability to influence the LIS benchmark and will be incentivized to increase its prices for individual PDPs. Higher prices increase the amount that non-LIS beneficiaries pay as well as the subsidies that the federal government pays for LIS enrollees. As a result, the merger will likely increase costs to beneficiaries, the federal government, and, ultimately, to taxpayers.

VII. Countervailing factors do not offset the anticompetitive effects of the transaction.

37. Entry of new insurers or expansion of existing insurers into the sale of individual PDPs in any Part D region is unlikely to prevent or remedy the proposed merger's anticompetitive effects. Effective entry into the sale of individual PDPs requires years of planning, millions of dollars, access to qualified personnel, and competitive contracts with pharmacies and pharmaceutical manufacturers. Because of these barriers to entry, entry or expansion into the sale of individual PDPs is unlikely to be timely or sufficient to remedy the anticompetitive effects from this merger.

38. The proposed merger is also unlikely to generate verifiable, merger-specific efficiencies sufficient to outweigh the anticompetitive effects that are likely to occur in the sale of individual PDPs in the relevant Part D regions.

VIII. Violation Alleged

39. The effect of the proposed merger, if consummated, likely would be to lessen competition substantially in the sale of individual PDPs in each of the relevant Part D regions, in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18.

40. In the sale of individual PDPs in each of the relevant Part D regions, the merger likely would:

(a) eliminate significant present and future head-to-head competition between CVS and Aetna;

(b) reduce competition generally;
(c) raise prices to Medicare beneficiaries and taxpayers;
(d) reduce quality; and
(e) lessen innovation.

IX. Request for relief

41. Plaintiffs request that the Court:
(a) adjudge CVS's proposed acquisition of Aetna to violate Section 7 of the Clayton Act, 15 U.S.C. § 18;
(b) permanently enjoin and restrain the Defendants from carrying out the planned acquisition or any other transaction that would combine the two companies;
(c) award Plaintiffs the costs of this action; and
(d) award Plaintiffs other relief that the Court deems just and proper.

Dated: October 10, 2018.

Respectfully submitted,

FOR PLAINTIFF UNITED STATES OF AMERICA:

Makan Delrahim,
Assistant Attorney General for Antitrust.

Bernard A. Nigro, Jr., (D.C. Bar #412357),
Deputy Assistant Attorney General.

Patricia A. Brink,
Director of Civil Enforcement.

Peter J. Mucchetti,
Chief, Healthcare and Consumer Products Section.

Scott I. Fitzgerald,
Assistant Chief, Healthcare and Consumer Products Section.

Jay D. Owen,
Jesús M. Alvarado-Rivera
Don Amlin (D.C. Bar #978349)
Barry L. Creech (D.C. Bar #421070)
Justin M. Dempsey (D.C. Bar #425976)
Emma Dick
Matthew C. Hammond
John A. Holler
Barry Joyce
Kathleen S. Kiernan (D.C. Bar #1003748)
Daphne Lin
Cerin M. Lindgrensavage
Michael T. Nash
Andrew J. Robinson (D.C. Bar #1008003)
Rebecca Valentine (D.C. Bar #989607)
Bashiri Wilson (D.C. Bar #998075)
Attorneys for the United States,
U.S. Department of Justice, Antitrust Division, 450 Fifth Street NW, Suite 4100, Washington, D.C. 20530, Tel.: (202) 598–2987, Fax: (202) 616–2441, E-mail: Jay.Owen@usdoj.gov.

FOR PLAINTIFF STATE OF CALIFORNIA:

Xavier Becerra,
Attorney General.

Emilio Varanini,
Deputy Attorney General, Office of the Attorney General of California, 455 Golden Gate Avenue, Suite 11000, San Francisco, California 94102, Phone: (415) 510–3541, Fax: (415) 703–5480, E-mail: Emilio.Varanini@doj.ca.gov.

FOR PLAINTIFF STATE OF FLORIDA:

Pamela Jo Bondi,
Attorney General.

Patricia A. Conners,
Deputy Attorney General.
Lizabeth A. Brady,
Chief, Multistate Enforcement.
Christopher R. Hunt,
Assistant Attorney General.
Rachel Michelle Steinman,
Assistant Attorney General, Office of the Attorney General of Florida, PL–01, The Capitol, Tallahassee, FL 32399–1050, Phone: (850) 414–3851, Fax: (850) 488–9134, liz.brady@myfloridalegal.com.

FOR PLAINTIFF STATE OF HAWAII:

Russell Suzuki,
Attorney General.

Rodney I. Kimura,
Deputy Attorney General, Office of the Attorney General of Hawaii, 425 Queen Street, Honolulu, HI 96813, Phone: (808) 586–1180, Fax: (808) 586–1205, rodney.i.kimura@hawaii.gov.

FOR PLAINTIFF STATE OF MISSISSIPPI:

Jim Hood,
Attorney General, State of Mississippi.

Crystal Utley Secoy,
Consumer Protection Division, Mississippi Attorney General's Office, P.O. Box 22947, Jackson, Mississippi 39225, Phone: (601) 359–4213, cutle@ago.state.ms.us.

FOR PLAINTIFF STATE OF WASHINGTON:

Robert W. Ferguson,
Attorney General.

Luminita Nodit,
Assistant Attorney General, Attorney General's Office, 800 Fifth Avenue, Suite 2000, Seattle, WA 98104–3188, Phone: (206) 254–0568, Fax: (206) 464–6338, luminitan@atg.wa.gov.

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

United States of America, et al.
Plaintiffs, v.
CVS Health Corporation,
and
AETNA Inc.
Defendants.

Case No. 1:18–cv–02340
Judge Richard J. Leon

PROPOSED FINAL JUDGMENT

WHEREAS, Plaintiffs United States of America and the States of California, Florida, Hawaii, Mississippi, and Washington (collectively, ''Plaintiff States''), filed their Complaint on October 10, 2018;

AND WHEREAS, Plaintiffs and Defendants, CVS Health Corporation (''CVS'') and Aetna Inc. (''Aetna''), have consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law and without this Final Judgment constituting any evidence against or admission by any party regarding any issue of fact or law;

AND WHEREAS, Defendants agree to be bound by the provisions of this Final Judgment pending its approval by the Court;

AND WHEREAS, the essence of this Final Judgment is the prompt and certain divestiture of certain rights and assets by Defendants to assure that competition is not substantially lessened;

AND WHEREAS, Plaintiffs require Defendants to divest certain assets for the purpose of remedying the loss of competition alleged in the Complaint;

AND WHEREAS, Defendants have represented to Plaintiffs that the divestiture required below can and will be made and that Defendants will not raise claims of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained below;

NOW THEREFORE, before any testimony is taken, without trial or adjudication of any issue of fact or law, and upon consent of the parties, it is ORDERED, ADJUDGED, AND DECREED:

I. JURISDICTION

The Court has jurisdiction over the subject matter of and each of the parties to this action. The Complaint states a claim upon which relief may be granted against Defendants under Section 7 of the Clayton Act, 15 U.S.C. § 18.

II. DEFINITIONS

As used in this Final Judgment:

A. ''Acquirer'' means WellCare or another entity approved by the United States in its sole discretion to whom Defendants divest the Divestiture Assets.

B. ''Aetna'' means Defendant Aetna Inc., a Pennsylvania corporation with its headquarters in Hartford, Connecticut; its successors and assigns; and its subsidiaries, divisions, groups, affiliates (for purposes of this definition, CVS is not deemed an affiliate of Aetna), partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

C. ''Aetna Brands'' means Aetna's and Aetna's current affiliates' names, marks, logos, colors, and copyrights, including, ''Aetna,'' ''Aetna Medicare,'' ''Aetna Medicare Rx,'' ''Aetna Medicare Solutions,'' ''Aetna Coventry,'' ''Aetna Medicare Rx Value Plus (PDP).''

D. ''Aetna's Individual PDP Business'' means Aetna's ongoing business of offering PDP plans to individual Medicare beneficiaries under CMS contracts S–5768 and S–5810.

E. ''Broker Contract'' means a valid contract with a third-party to sell PDPs under CMS contracts S–5768 or S–5810.

F. ''CMS'' means the Centers for Medicare and Medicaid Services, an agency within the U.S. Department of Health and Human Services.

G. ''CVS'' means Defendant CVS Health Corporation, a Delaware corporation with its headquarters in Woonsocket, Rhode Island; its successors and assigns; and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

H. ''Divestiture Assets'' means Aetna's Individual PDP Business, including:

(1) all rights and obligations relating to Aetna's Individual PDP Business, including the right to offer individual PDPs to enrollees under CMS contracts S–5768 and S–5810 and the right to receive from CMS a per member per month payment in exchange for providing or arranging for the benefits offered under CMS contracts S–5768 and S–5810; and

(2) copies of all books, records, and data, both current and historical, relating to CMS contracts S–5768 and S–5810. Where books, records, or data relate to the CMS contracts S–5768 or S–5810, but not solely to these contracts, Defendants must provide all excerpts relating to the S–5768 and S–5810 contracts.

I. ''PDP'' means a standalone prescription drug plan option available to Medicare beneficiaries under Medicare Part D that subsidizes the costs of prescription drugs for enrollees.

J. ''Relevant Personnel'' means every person providing pharmacy network, product development, and actuarial support for Aetna's Individual PDP Business.

K. ''WellCare'' means WellCare Health Plans, Inc., a Delaware corporation with its headquarters in Tampa, Florida; its successors and assigns; and its subsidiaries.

III. APPLICABILITY

A. This Final Judgment applies to each Defendant and all other persons in active concert or participation with any Defendant who receive actual notice of this Final Judgment by personal service or otherwise.

B. If, before complying with Section IV and Section VI of this Final Judgment, Defendants sell or otherwise dispose of all or substantially all of their assets or of lesser business units that include the Divestiture Assets, Defendants must require the purchasers to be bound by the provisions of this Final Judgment. Defendants need not obtain such an agreement from the Acquirer of the assets divested under this Final Judgment.

IV. DIVESTITURE

A. Within 30 calendar days after the filing of the Complaint in this matter, Defendants must divest the Divestiture Assets in a manner consistent with this Final Judgment to an Acquirer acceptable to the United States, in its sole discretion, after consultation with the Plaintiff States. The United States in its sole discretion may agree to one or more extensions of this time period not to exceed 90 calendar days in total and must notify the Court in such circumstances. Defendants must use their best efforts to divest the Divestiture Assets as expeditiously as possible.

B. If Defendants attempt to divest the Divestiture Assets to an Acquirer other than WellCare, Defendants must promptly make known, by usual and customary means, the availability of the Divestiture Assets. Defendants must inform any person making an inquiry regarding a possible purchase of the Divestiture Assets that they are being divested in accordance with this Final Judgment and provide that person with a copy of this Final Judgment.

C. Defendants must obtain all regulatory approvals relating to the Divestiture Assets as expeditiously as possible. If applications for approval have been filed with the appropriate governmental units within five calendar days after the United States has provided written notice under Paragraph VII(C) that it does not object to a proposed divestiture, but these required approvals have not been issued or become effective before the end of the period permitted for divestiture, the period for divestiture is extended until five business days after all necessary government approvals have been received. With respect to this Paragraph, an application for CMS approval is deemed to have been filed when Defendants have given CMS advance notice of a possible change in ownership under 42 C.F.R. § 423.551–552, as long as Defendants timely submit all materials required by CMS for approval.

D. Defendants must permit the Acquirer to have reasonable access to personnel and access to any and all financial, operational, or other documents and information customarily provided as part of a due diligence process.

E. Defendants may not take any action that will impede in any way the permitting, operation, or divestiture of the Divestiture Assets.

F. The divestiture under Section IV or VI of this Final Judgment must include the entire Divestiture Assets unless the United States, in its sole discretion, after consultation with the Plaintiff States, otherwise consents in writing. The divestiture must be accomplished in such a way as to satisfy the United States, in its sole discretion, after consultation with the Plaintiff States, that the Divestiture Assets can and will be used by the Acquirer as part of a viable, ongoing individual PDP business. Defendants will divest the Divestiture Assets in a manner that demonstrates, to the sole satisfaction of the United States after consultation with the Plaintiff States, that the Divestiture Assets will remain viable and that the divestiture of such assets will remedy the competitive harm alleged in the Complaint. The divestiture, whether under Section IV or Section VI of this Final Judgment,

(1) must be made to an Acquirer that, in the United States' sole judgment, after consultation with the Plaintiff States, has the intent and capability (including the necessary managerial, operational, technical, and financial capability) of competing effectively in the business of selling individual PDPs; and

(2) must be accomplished so as to satisfy the United States, in its sole discretion, after consultation with the Plaintiff States, that none of the terms of any agreement between an Acquirer and Defendants give Defendants the ability unreasonably to raise the Acquirer's costs, to lower the Acquirer's efficiency, or otherwise to interfere in the ability of the Acquirer to compete effectively.

G. Defendants must communicate and cooperate fully with the Acquirer to work in good faith with CMS to implement a novation process that is efficient and adheres to CMS's requirements. This cooperation includes: (i) preparing and filing as promptly as practicable with any governmental authority or other third party all documentation to effect all necessary, proper or advisable filings; (ii) obtaining as promptly as practicable and maintaining all consents required to be obtained from any governmental authority or other third party that are necessary, proper, or advisable to consummate the transactions contemplated by this Final Judgment; (iii) to the extent permitted by applicable law, furnishing as promptly as practicable to one another or any governmental authority any information or documentary materials reasonably requested or required in connection with obtaining and maintaining such consents; and (iv) communicating and cooperating with the other party and its affiliates in connection with such matters.

H. At the option of the Acquirer, Defendants must execute an administrative services agreement, and fully perform the duties and obligations of that agreement until at least December 31, 2019. The services to be provided by Defendants to the Acquirer under the administrative services agreement must encompass all services necessary to operate the Divestiture Assets, including: (1) pharmacy network management and contracting; (2) prescription drug claims processing and run-out of claims processing; (3) utilization review and quality management; (4) data collection, reporting and submission; (5) rebate management; (6) formulary administration; (7) eligibility (including retro-eligibility) and enrollment; (8) billing and invoicing; (9) prescription drug event file management and submission; (10) medication therapy management services; (11) disease management; (12) clinical safety and drug adherence programs; (13) print and fulfillment services; (14) customer service; (15) appeals and grievances; (16) coordination of benefits; (17) record retention; (18) transition services; (19) run-out services; (20) oversight compliance activities; (21) reporting activities; (22) audit support activities; and (23) the provision of actuarial bid data. The terms and conditions of such an agreement must be acceptable to the United States in its sole discretion.

I. Defendants must grant the Acquirer a non-exclusive, royalty-free license, under which the Acquirer is permitted to use the Aetna Brands for the limited purposes of marketing of the Divestiture Assets, transition to a future branded PDP, communications with enrollees regarding benefits and coverage under the Divestiture Assets, and other materials that are necessary for operation of the Divestiture Assets through December 31, 2019, as permitted by CMS in accordance with all laws and regulations.

J. During the 2020 plan year (January 1, 2020, through December 31, 2020), Defendants may not directly, or indirectly through an affiliate, offer individual standalone Medicare Part D products under the Aetna Brands.

K. Except in connection with marketing of the Divestiture Assets for the 2019 plan year (January 1, 2019 through December 31, 2019), Defendants may not use any PDP enrollee data relating to the Divestiture Assets for Part D or Medicare Advantage marketing purposes (including direct mail, email campaigns,

outbound Medicare Advantage cross-selling activities, and other similar marketing and retention communications), nor may Defendants instruct brokers to do so.

L. Defendants must assign to the Acquirer all current and valid Broker Contracts (or a duplicate of those Contracts) concerning the Divestiture Assets and must provide the Acquirer with contact information (name, principal address, key contact, email address, and telephone number) and the terms of PDP-related compensation for each such broker.

M. During the 90-day period following the closing of the sale of the Divestiture Assets, Defendants must use reasonable best efforts to obtain written consent from retail pharmacy entities with 20 or more locations and pharmacy services administrative organizations to disclose to the Acquirer the rates relating to the Divestiture Assets by basic and enhanced benefit plan, and by PDP contract, including: (1) for the 2019 benefit year, the generic rate, the generic guarantee, the brand rate, the brand guarantee, dispensing fees, any price concessions or direct and indirect remuneration, and any conditions or limitations agreed to in order to achieve these reimbursement rates; and (2) for the 2018 benefit year, any price concessions or direct and indirect remuneration. Defendants must provide the Acquirer with periodic updates and information regarding its efforts to obtain consent from such entities. If the entities provide such consent after the 90-day period has expired, but before January 1, 2020, Defendants are still obligated to disclose the reimbursement rates to the Acquirer. Within 30 days of the closing of the sale of the Divestiture Assets, Defendants must provide aggregate average reimbursement rates by class of trade (national chains, mass merchandisers, grocers, and pharmacy services administrative organizations) and by basic and enhanced benefit plan under the PDP contracts.

N. Defendants must use all reasonable efforts to maintain and increase the sales and revenues of the Divestiture Assets, and must maintain at 2018 or previously approved levels for 2019, whichever are higher, all promotional, advertising, sales, technical assistance, marketing, and merchandising support for the Divestiture Assets.

V. EMPLOYEES

A. No later than 10 business days following the filing of the Complaint in this matter, Defendants must provide to the Acquirer, the United States, and the Plaintiff States organization charts covering all Relevant Personnel.

B. Unless the United States otherwise consents in writing after consultation with the Plaintiff States, upon request of the Acquirer, Defendants must make Relevant Personnel available for interviews with the Acquirer during normal business hours at a mutually agreeable location. Defendants may not interfere with any negotiations by the Acquirer to employ any Relevant Personnel. Interference includes but is not limited to offering to increase the salary or benefits of Relevant Personnel other than as part of an increase in salary or benefits granted in the ordinary course of business as part of the annual compensation cycle.

C. For any Relevant Personnel who elect employment with the Acquirer during the recruitment period agreed upon by Acquirer and Defendants, Defendants must waive all non-compete and non-disclosure agreements (except as noted in Paragraph V(E)); vest all unvested pension benefits; vest pro-rata any equity rights that do not vest on an installment basis; vest pro-rata any equity rights that would vest on an installment basis for 2018 or 2019, with the pro-rata basis for installment-based equity rights being the number of days the employee was employed by Defendants in the year that the installment would vest; and provide all benefits that Relevant Personnel would be provided if transferred to a buyer of an ongoing business.

D. For a period of one year from the date of filing of the Complaint in this matter, Defendants may not solicit to hire, or hire, any Relevant Personnel who was hired by the Acquirer, unless (a) the individual is terminated or laid off by the Acquirer or (b) the Acquirer agrees in writing that Defendants may solicit or hire that individual.

E. Nothing in Section V prohibits Defendants from maintaining any reasonable restrictions on the disclosure by any employee who accepts an offer of employment with the Acquirer of Defendants' proprietary non-public information that is (a) not otherwise required to be disclosed by this Final Judgment, (b) related solely to Defendants' businesses and clients, and (c) involving a business other than the Divestiture Assets.

F. The Acquirer's right to hire personnel under Section V lasts for a period of 60 days after the divestiture closing date.

VI. APPOINTMENT OF DIVESTITURE TRUSTEE

A. If Defendants have not divested the Divestiture Assets within the time period specified in Paragraph IV(A), Defendants must notify the United States and the Plaintiff States of that fact in writing. Upon application of the United States, the Court will appoint a Divestiture Trustee selected by the United States and approved by the Court to effect the divestiture of the Divestiture Assets.

B. After the appointment of a Divestiture Trustee becomes effective, only the Divestiture Trustee has the right to sell the Divestiture Assets. The Divestiture Trustee will have the power and authority to accomplish the divestiture to an Acquirer acceptable to the United States, in its sole discretion, after consultation with the Plaintiff States, at such price and on such terms as are then obtainable upon reasonable effort by the Divestiture Trustee, subject to the provisions of Sections IV, V, VI, and VII of this Final Judgment, and will have any other powers that the Court deems appropriate. Subject to Paragraph VI(D) of this Final Judgment, the Divestiture Trustee may hire at the cost and expense of Defendants any agents, investment bankers, attorneys, accountants, or consultants, who will be solely accountable to the Divestiture Trustee, reasonably necessary in the Divestiture Trustee's judgment to assist in the divestiture. Any such agents or consultants will serve on such terms and conditions as the United States approves, including confidentiality requirements and conflict of interest certifications.

C. Defendants will not object to a sale by the Divestiture Trustee on any ground other than the Divestiture Trustee's malfeasance. Any such objection by Defendants must be conveyed in writing to the United States and the Divestiture Trustee within 10 calendar days after the Divestiture Trustee has provided the notice required under Paragraph VI(A).

D. The Divestiture Trustee will serve at the cost and expense of Defendants under a written agreement, on such terms and conditions as the United States approves, including confidentiality requirements and conflict of interest certifications. The Divestiture Trustee will account for all monies derived from the sale of the assets sold by the Divestiture Trustee and all costs and expenses so incurred. After approval by the Court of the Divestiture Trustee's accounting, including fees for any of its services yet unpaid and those of any professionals and agents retained by the Divestiture Trustee, all remaining money will be paid to Defendants and the trust will then be terminated. The compensation of the Divestiture Trustee and any professionals and agents retained by the Divestiture Trustee will be reasonable in light of the value of the Divestiture Assets and based on a fee arrangement that provides the Divestiture Trustee with incentives based on the price and terms of the divestiture and the speed with which it is accomplished, but the timeliness of the divestiture is paramount. If the Divestiture Trustee and Defendants are unable to reach agreement on the Divestiture Trustee's or any agents' or consultants' compensation or other terms and conditions of engagement within 14 calendar days of the appointment of the Divestiture Trustee, the United States may, in its sole discretion, take appropriate action, including making a recommendation to the Court. The Divestiture Trustee will, within three business days of hiring any other agents or consultants, provide written notice of such hiring and the rate of compensation to Defendants and the United States.

E. Defendants must use their best efforts to assist the Divestiture Trustee in accomplishing the required divestiture. The Divestiture Trustee and any agents or consultants retained by the Divestiture Trustee will have full and complete access to the personnel, books, records, and facilities of the business to be divested, and Defendants must provide or develop financial and other information relevant to such business as the Divestiture Trustee may reasonably request, subject to reasonable protection for trade secrets; other confidential research, development, or commercial information; or any applicable privileges. Defendants may not take any action to interfere with or to impede the Divestiture Trustee's accomplishment of the divestiture.

F. After its appointment, the Divestiture Trustee will file monthly reports with the United States and, as appropriate, the Court, setting forth the Divestiture Trustee's efforts

to accomplish the divestiture ordered under this Final Judgment. To the extent such reports contain information that the Divestiture Trustee deems confidential, such reports will not be filed in the public docket of the Court. Such reports will include the name, address, and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring any interest in the Divestiture Assets and will describe in detail each contact with any such person. The Divestiture Trustee will maintain full records of all efforts made to divest the Divestiture Assets.

G. If the Divestiture Trustee has not accomplished the divestiture ordered under this Final Judgment within six months after its appointment, the Divestiture Trustee will promptly file with the Court a report setting forth (1) the Divestiture Trustee's efforts to accomplish the required divestiture; (2) the reasons, in the Divestiture Trustee's judgment, why the required divestiture has not been accomplished; and (3) the Divestiture Trustee's recommendations. To the extent such report(s) contain information that the Divestiture Trustee deems confidential, such report(s) will not be filed in the public docket of the Court. The Divestiture Trustee will at the same time furnish such report to the United States, which will have the right to make additional recommendations consistent with the purpose of the trust. The Court thereafter will enter such orders as it deems appropriate to carry out the purpose of the Final Judgment, which may, if necessary, include extending the trust and the term of the Divestiture Trustee's appointment by a period requested by the United States.

H. If the United States determines that the Divestiture Trustee has ceased to act or failed to act diligently or in a reasonably cost-effective manner, the United States may recommend the Court appoint a substitute Divestiture Trustee.

VII. NOTICE OF PROPOSED DIVESTITURE

A. Within two business days following execution of a definitive divestiture agreement, Defendants or the Divestiture Trustee, whichever is then responsible for effecting the divestiture required herein, must notify the United States and the Plaintiff States of any proposed divestiture required by Section IV or Section VI of this Final Judgment. If the Divestiture Trustee is responsible, the Divestiture Trustee must similarly notify Defendants. The notice must set forth the details of the proposed divestiture and list the name, address, and telephone number of each person not previously identified who offered or expressed an interest in or desire to acquire any ownership interest in the Divestiture Assets, together with full details of the same.

B. Within 15 calendar days of receipt by the United States of such notice, the United States, in its sole discretion, after consultation with the Plaintiff States, may request from Defendants, the Acquirer, any other third party, or the Divestiture Trustee, if applicable, additional information concerning the proposed divestiture and the Acquirer. Defendants and the Divestiture Trustee must furnish any additional information requested within 15 calendar days of the receipt of the request, unless the parties otherwise agree.

C. Within 30 calendar days after receipt of the notice or within 20 calendar days after the United States has been provided the additional information requested from Defendants, the Acquirer, any third party, and the Divestiture Trustee, whichever is later, the United States will provide written notice to Defendants and the Divestiture Trustee, if there is one, stating whether or not it objects to the proposed divestiture. If the United States provides written notice that it does not object, the divestiture may be consummated, subject only to Defendants' limited right to object to the sale under Paragraph VI(C) of this Final Judgment. Absent written notice that the United States does not object to the proposed Acquirer or upon objection by the United States, a divestiture proposed under Section IV or Section VI may not be consummated. Upon objection by Defendants under Paragraph VI(C), a divestiture proposed under Section VI must not be consummated unless approved by the Court.

VIII. FINANCING

Defendants may not finance all or any part of any purchase made under Section IV or Section VI of this Final Judgment.

IX. ASSET PRESERVATION

Until the divestiture required by this Final Judgment has been accomplished, Defendants must take all steps necessary to comply with the Asset Preservation Stipulation and Order entered by the Court. Defendants may not take any action that would jeopardize the divestiture ordered by the Court.

X. AFFIDAVITS

A. Within 20 calendar days of the filing of the Complaint in this matter, and every 30 calendar days thereafter until the divestiture has been completed under Section IV or Section VI, Defendants must deliver to the United States and the Plaintiff States an affidavit, signed by each Defendant's chief financial officer and general counsel, which describes the fact and manner of Defendants' compliance with Section IV or Section VI of this Final Judgment. Each affidavit must include the name, address, and telephone number of each person who, during the preceding 30 calendar days, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Divestiture Assets, and must describe in detail each contact with any such person during that period. Each affidavit must also include a description of Defendants' efforts to solicit buyers for the Divestiture Assets, and to provide required information to prospective Acquirers, including the limitations, if any, on such information. Assuming the information set forth in the affidavit is true and complete, any objection by the United States, in its sole discretion, after consultation with the Plaintiff States, to information provided by Defendants, including limitation on information, must be made within 14 calendar days of receipt of such affidavit.

B. Within 20 calendar days of the filing of the Complaint in this matter, Defendants must deliver to the United States and the Plaintiff States an affidavit that describes in reasonable detail all actions Defendants have taken and all steps Defendants have implemented on an ongoing basis to comply with Section IX of this Final Judgment. Defendants must deliver to the United States and the Plaintiff States an affidavit describing any changes to the efforts and actions outlined in Defendants' earlier affidavits filed under this Section within 15 calendar days after the change is implemented.

C. Defendants must keep all records of all efforts made to preserve and divest the Divestiture Assets until one year after the divestiture has been completed.

XI. APPOINTMENT OF MONITORING TRUSTEE

A. Upon application of the United States, the Court will appoint a Monitoring Trustee selected by the United States, after consultation with the Plaintiff States, and approved by the Court.

B. The Monitoring Trustee will have the power and authority to monitor Defendants' compliance with the terms of this Final Judgment and the Asset Preservation Stipulation and Order entered by the Court and will have any other powers that the Court deems appropriate. The Monitoring Trustee must investigate and report on the Defendants' compliance with this Final Judgment and the Asset Preservation Stipulation and Order, and Defendants' progress toward effectuating the purposes of this Final Judgment, including the implementation and execution of the agreements contemplated in Paragraphs IV(G)–(H) and the hiring of employees under Section V.

C. Subject to Paragraph XI(E) of this Final Judgment, the Monitoring Trustee may hire at the cost and expense of Defendants any agents, investment bankers, attorneys, accountants, or consultants, who will be solely accountable to the Monitoring Trustee, reasonably necessary in the Monitoring Trustee's judgment. These agents, investment bankers, attorneys, accountants, or consultants will serve on terms and conditions approved by the United States, including confidentiality requirements and conflict-of-interest certifications.

D. Defendants may not object to actions taken by the Monitoring Trustee in fulfillment of the Monitoring Trustee's responsibilities under any Order of the Court on any ground other than the Monitoring Trustee's malfeasance. Any such objection by Defendants must be conveyed in writing to the United States and the Monitoring Trustee within 10 calendar days after the action taken by the Monitoring Trustee giving rise to Defendants' objection.

E. The Monitoring Trustee will serve at the cost and expense of Defendants, under a written agreement with Defendants and on such terms and conditions as the United States approves, including confidentiality

requirements and conflict of interest certifications. The compensation of the Monitoring Trustee and any agents or consultants retained by the Monitoring Trustee will be on reasonable and customary terms commensurate with the individuals' experience and responsibilities. If the Monitoring Trustee and Defendants are unable to reach agreement on the Monitoring Trustee's or any agents' or consultants' compensation or other terms and conditions of engagement within 14 calendar days of the appointment of the Monitoring Trustee, the United States may, in its sole discretion, take appropriate action, including making a recommendation to the Court. The Monitoring Trustee will, within three (3) business days of hiring any agents or consultants, provide written notice of such hiring and the rate of compensation to Defendants and the United States.

F. The Monitoring Trustee will have no responsibility or obligation for the operation of Defendants' businesses.

G. Defendants will use their best efforts to assist the Monitoring Trustee in monitoring Defendants' compliance with their individual obligations under this Final Judgment and under the Asset Preservation Stipulation and Order. The Monitoring Trustee and any agents or consultants retained by the Monitoring Trustee will have full and complete access to the personnel, books, records, and facilities relating to compliance with this Final Judgment, subject to reasonable protection for trade secrets; other confidential research, development, or commercial information; or any applicable privileges. Defendants may not take any action to interfere with or to impede the Monitoring Trustee's accomplishment of its responsibilities.

H. After its appointment, the Monitoring Trustee must file reports every 90 days, or more frequently as needed, with the United States, the Plaintiff States, and, as appropriate, the Court setting forth Defendants' efforts to comply with Defendants' obligations under this Final Judgment and under the Asset Preservation Stipulation and Order. To the extent these reports contain information that the Monitoring Trustee deems confidential, the reports may not be filed in the public docket of the Court.

I. At the discretion of the United States, the Monitoring Trustee may serve until the expiration of the administrative services agreement described in Paragraph IV(H), or January 1, 2020, whichever is later.

J. If the United States determines that the Monitoring Trustee has ceased to act or failed to act diligently or in a reasonably cost-effective manner, it may recommend the Court appoint a substitute Monitoring Trustee.

XII. COMPLIANCE INSPECTION

A. For the purposes of determining or securing compliance with this Final Judgment, or of any related orders such as any Asset Preservation Stipulation and Order, or of determining whether the Final Judgment should be modified or vacated, and subject to any legally recognized privilege, from time to time authorized representatives of the United States, including agents and consultants retained by the United States, must, upon written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division and on reasonable notice to Defendants, be permitted:

(1) access during Defendants' office hours to inspect and copy or, at the option of the United States, to require Defendants to provide electronic copies of all books, ledgers, accounts, records, data, and documents in the possession, custody, or control of Defendants relating to any matters contained in this Final Judgment; and

(2) to interview, either informally or on the record, Defendants' officers, employees, or agents, who may have their individual counsel present, regarding such matters. The interviews are subject to the reasonable convenience of the interviewee and without restraint or interference by Defendants.

B. Upon the written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division, Defendants must submit written reports or responses to written interrogatories, under oath if requested, relating to any of the matters contained in this Final Judgment as may be requested.

C. No information or documents obtained by the means provided in Section XII may be divulged by the United States to any person other than an authorized representative of the executive branch of the United States, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If, when Defendants furnish information or documents to the United States, Defendants represent and identify in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure, and Defendants mark each pertinent page of such material, ''Subject to claim of protection under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure,'' then the United States must give Defendants 10 calendar days' notice before divulging such material in any legal proceeding (other than a grand jury proceeding).

XIII. NO REACQUISITION OR RECOMBINATION OF DIVESTITURE ASSETS

Defendants may not reacquire any part of the Divestiture Assets during the term of this Final Judgment. The Acquirer may not purchase or otherwise obtain from Defendants during the term of this Final Judgment any assets or businesses that compete with the Divestiture Assets.

XIV. RETENTION OF JURISDICTION

The Court retains jurisdiction to enable any party to this Final Judgment to apply to the Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify any of its provisions, to enforce compliance, and to punish violations of its provisions.

XV. ENFORCEMENT OF FINAL JUDGMENT

A. The United States retains and reserves all rights to enforce the provisions of this Final Judgment, including the right to seek an order of contempt from the Court. Defendants agree that in any civil contempt action, any motion to show cause, or any similar action brought by the United States regarding an alleged violation of this Final Judgment, the United States may establish a violation of the decree and the appropriateness of any remedy therefor by a preponderance of the evidence, and Defendants waive any argument that a different standard of proof should apply.

B. The Final Judgment should be interpreted to give full effect to the procompetitive purposes of the antitrust laws and to restore all competition harmed by the challenged conduct. Defendants agree that they may be held in contempt of, and that the Court may enforce, any provision of this Final Judgment that, as interpreted by the Court in light of these procompetitive principles and applying ordinary tools of interpretation, is stated specifically and in reasonable detail, whether or not it is clear and unambiguous on its face. In any such interpretation, the terms of this Final Judgment should not be construed against either party as the drafter.

C. In any enforcement proceeding in which the Court finds that Defendants have violated this Final Judgment, the United States may apply to the Court for a one-time extension of this Final Judgment, together with such other relief as may be appropriate. In connection with any successful effort by the United States to enforce this Final Judgment against a Defendant, whether litigated or resolved before litigation, that Defendant agrees to reimburse the United States for the fees and expenses of its attorneys, as well as any other costs including experts' fees, incurred in connection with that enforcement effort, including in the investigation of the potential violation.

XVI. EXPIRATION OF FINAL JUDGMENT

Unless the Court grants an extension, this Final Judgment expires 10 years from the date of its entry, except that after five years from the date of its entry, this Final Judgment may be terminated upon notice by the United States to the Court and Defendants that the divestiture has been completed and that the continuation of the Final Judgment no longer is necessary or in the public interest.

XVII. PUBLIC INTEREST DETERMINATION

Entry of this Final Judgment is in the public interest. The parties have complied with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16, including making copies available to the public of this Final Judgment, the Competitive Impact Statement, any comments thereon, and the United States' responses to comments. Based upon the record before the Court, which includes the Competitive Impact Statement and any comments and responses to comments filed with the Court, entry of this Final Judgment is in the public interest.

Date: _____

[Court approval subject to procedures of Antitrust Procedures and Penalties Act, 15 U.S.C. § 16]

United States District Judge

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

United States of America, et al. Plaintiffs, v. *CVS Health Corporation,* and *AETNA Inc.* Defendants.

Case No. 1:18–cv–02340
Judge Richard J. Leon

COMPETITIVE IMPACT STATEMENT

Plaintiff United States of America files this Competitive Impact Statement under Section 2(b) of the Antitrust Procedures and Penalties Act (''APPA'' or ''Tunney Act''), 15 U.S.C. § 16(b), relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. Nature and Purpose of the Proceeding

On December 3, 2017, CVS Health Corporation agreed to acquire Aetna Inc. for approximately $69 billion. The United States filed a civil antitrust Complaint on October 10, 2018, seeking to enjoin the proposed acquisition. The Complaint alleges that the likely effect of this acquisition would be to lessen competition substantially for the sale of standalone individual Medicare Part D prescription drug plans (''individual PDPs''), resulting in increased premiums and increased out-of-pocket costs paid by Medicare beneficiaries, higher subsidies paid by the federal government (and ultimately, taxpayers), and a lessening of service quality and innovation, all in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18.

At the same time that it filed the Complaint, the United States also filed a proposed Final Judgment and Asset Preservation Stipulation and Order, which are designed to prevent the merger's likely anticompetitive effects. Under the proposed Final Judgment, which is explained more fully below, Defendants are required to divest Aetna's individual PDP business. Until the divestiture is complete, the Asset Preservation Order requires Defendants to take certain steps to ensure that, while the required divestitures are pending, all of the divestiture assets will be preserved.

The United States and Defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof.

II. Description of the Events Giving Rise to the Alleged Violation

A. *Defendants and the Proposed Transaction*

CVS, based in Woonsocket, Rhode Island, is involved in numerous areas of the healthcare delivery chain. CVS operates the nation's largest retail pharmacy chain; owns Caremark, a large pharmacy benefit manager, which, among other things, connects health plans or employers to pharmacies and drug manufacturers in the pharmacy services supply chain; and sells Medicare Part D prescription drug plans to individuals and groups under the brand name SilverScript. SilverScript plans are available in all 50 states and the District of Columbia, and have the second-largest enrollment in individual PDPs nationwide. CVS's overall 2017 revenues were approximately $185 billion.

Aetna is based in Hartford, Connecticut, and is the nation's third-largest health insurance company, providing commercial health insurance; plans under the Medicare Advantage, Medicare Supplement, and Medicaid programs; Medicare Part D prescription drug plans; and pharmacy benefit management services. Like CVS, Aetna offers individual PDPs in all 50 states and the District of Columbia. Aetna is the fourth-largest provider of individual PDPs nationwide. Aetna's 2017 revenues were approximately $60 billion.

On December 3, 2017, CVS agreed to acquire Aetna for approximately $69 billion. This acquisition is the subject of the Complaint and proposed Final Judgment filed by the United States on October 10, 2018. The proposed transaction would lessen competition substantially in markets for the sale of individual PDPs. In recognition of the significant competitive concerns raised by the proposed merger, Defendants have agreed to divest Aetna's individual PDP business.

B. The Competitive Effects of the Transaction on Individual PDP Markets

1. Relevant Markets

As alleged in the Complaint, individual PDPs are a relevant product market under Section 7 of the Clayton Act. For the vast majority of Medicare beneficiaries, prescription drug coverage is determined by how they obtain medical coverage: beneficiaries who have chosen Original Medicare can enroll in an individual PDP, and beneficiaries enrolled in Medicare Advantage, a private insurance option that replaces Original Medicare, can enroll in a plan that includes drug coverage.

Once beneficiaries have chosen between Original Medicare and Medicare Advantage, they are very unlikely to switch between the two programs. *See United States v. Aetna,* 240 F. Supp. 3d 1, 27–29 (D.D.C. 2017). As the Complaint alleges, only about two percent of individual PDP members convert to Medicare Advantage plans each year during open enrollment, and an even smaller percentage of individuals convert from Medicare Advantage plans to individual PDPs. As a result, a hypothetical monopolist of individual PDPs could profitably raise prices by a small but significant amount on individual PDPs without risking loss of substantial membership to Medicare Advantage plans.

The Complaint alleges that the relevant geographic markets under Section 7 of the Clayton Act for individual PDPs are Medicare Part D regions. The Centers for Medicare & Medicaid Services (''CMS''), a component of the Department of Health and Human Services, has divided the country into 34 Part D regions, none of which is smaller than a single state. CMS requires the companies that sell individual PDPs, also known as Part D plan sponsors, to offer the same plans at the same price across the entire Part D region. Individuals can only purchase PDPs that are offered in the region where they reside. Thus, a prospective purchaser of an individual PDP would be unable to turn to plan sponsors outside of the Part D region in response to a price increase.

2. Competitive Effects

Competition is an essential element of individual PDP markets. Congress designed the Medicare Part D program to rely on competition among multiple private plan sponsors to keep annual bids—which form the basis for federal government subsidies and beneficiary premiums—low.

The proposed merger is likely to cause a significant increase in concentration and result in highly concentrated markets in 12 of the regions identified in the Complaint: Arkansas, California, Florida, Georgia, Hawaii, Kansas, Louisiana, Mississippi, Missouri, New Mexico, Ohio, and South Carolina. In each of these regions, the merger would eliminate significant head-to-head competition between CVS and Aetna. As alleged in the Complaint, CVS's and Aetna's individual PDPs are among the fastest growing plans in the country, and competition between them has led not only to lower premiums and out-of-pocket expenses but also improved drug formularies (lists of drugs that govern an enrollee's coverage and required copayments), more attractive pharmacy networks, enhanced benefits, and innovative product features. Following the proposed transaction, the merged firm would control at least 35% of the individual PDP market in each region, with a high of 53.5% in Hawaii. In each of these regions, the combination of CVS and Aetna would surpass the thresholds necessary to establish a presumption of enhanced market power and a substantial lessening of competition. *See United States v. Anthem, Inc.,* 855 F.3d 345, 349 (D.C. Cir. 2017) (holding that market concentration can establish a presumption of anticompetitive effects).

In addition, in five of the Part D regions discussed above (Arkansas, Georgia, Kansas, Mississippi, and Missouri), as well as four additional regions (North Carolina, Oklahoma, Wisconsin, and the multistate region of Iowa, Minnesota, Montana, Nebraska, North Dakota, South Dakota, and Wyoming), the merged company will account for between 35% and 55% of all low-income-subsidy-eligible beneficiaries, including those who enroll in Medicare Advantage plans with prescription drug benefits. When combined with other market factors, these increases in the share of low-income subsidy beneficiaries suggests that the merger would likely result in further loss of competition.

Specifically, the merger would likely increase the merged company's ability to influence a critical feature of the Medicare Part D program called the low-income subsidy (''LIS'') benchmark, which in turn would increase premiums and out-of-pocket expenses for basic individual PDPs—those plans that provide an equivalent to the minimum coverage set forth in 42 U.S.C. § 1395w–102 and in which LIS beneficiaries can enroll (or be auto-enrolled) for free. As explained in the Complaint, plan sponsors

submit bids for their basic plans each year, and CMS calculates a region-by-region, LIS enrollment-weighted average of these bids to determine the low-income benchmark and low-income subsidy. When bids are higher, the low-income subsidy—paid by the federal government—is higher, as are the premiums paid by those who do not receive a low-income subsidy.

The LIS benchmark also, as a practical matter, encourages plan sponsors to offer lower bids. If plan sponsor bids above the low-income benchmark, it risks not only losing thousands of new enrollees but also risks having CMS transfer tens or even hundreds of thousands of current enrollees to a below-benchmark competitor. The uncertainty and risk associated with missing the low-income benchmark, especially by more than a de minimis amount, contribute to keeping bids low.

3. Entry and Expansion

Neither entry nor expansion is likely to solve the competitive problems created by the merger between CVS and Aetna. Recent entrants into individual PDP markets have been largely unsuccessful, with many subsequently exiting the market or shrinking their geographic footprint. Effective entry into the sale of individual PDPs requires years of planning, millions of dollars, access to qualified personnel, and competitive contracts with retail pharmacies and pharmaceutical manufacturers, and companies must establish sufficient scale quickly to keep their plans' costs down. Because of these barriers to entry, entry or expansion into the sale of individual PDPs is unlikely to be timely or sufficient to remedy the anticompetitive effects from this merger.

III. Explanation of the Proposed Final Judgment

The divestiture mandated by the proposed Final Judgment will resolve the United States' concerns about the likely anticompetitive effects of the acquisition by requiring CVS to divest Aetna's individual PDP business nationwide. To ensure that the acquirer of Aetna's business will replace Aetna as an effective competitor and innovator in each of the 16 markets in which the Complaint alleges that the proposed merger would harm competition, the United States carefully scrutinized Defendants' businesses to identify a comprehensive package of assets for divestiture.

A. Scope of the Divestiture

In evaluating a remedy, the United States' fundamental goal is to preserve competition. *See United States v. E.I. du Pont de Nemours & Co.,* 366 U.S. 316, 324 (1961) (''The key to the whole question of an antitrust remedy is of course the discovery of measures effective to restore competition.''). This goal is most directly accomplished through a divestiture of the overlapping products. Because the goal of a divestiture is to create a viable entity that will effectively preserve competition, in certain cases, the divestiture must include assets that are beyond the affected relevant market.

Guided by these principles, the United States identified a divestiture package that remedies the various dimensions of harm threatened by the proposed merger:

- First, the proposed Final Judgment requires CVS to divest both of Aetna's individual PDP contracts with CMS, which is the portion of Aetna's business that vigorously competes head-to-head with CVS today. Divestiture of Aetna's nationwide individual PDP business—and not just Aetna's business in the regions identified in the Complaint—will provide the acquirer with the scale and ability to implement a national strategy comparable to Aetna's current strategy. That is because contracts with pharmacy benefit managers, retail pharmacy networks, and pharmaceutical companies are almost all negotiated on a national basis, with the number of Medicare beneficiaries covered by the plan sponsor being a key factor in the rates that the plan sponsor receives. Thus, a national divestiture helps provide the acquirer with the ability to replicate Aetna's cost structure and approach to the market.
- Defendants are also required to transfer data relating to Aetna's individual PDP business, information regarding the amount that Aetna pays to retail pharmacies in exchange for filling prescriptions for Aetna members, and any contracts with brokers that currently sell Aetna's individual PDPs, including information regarding how much Aetna currently pays these brokers. The transfer of this data and information will help ensure that the acquirer has sufficient knowledge and supporting information that it can use to negotiate comparable retail-pharmacy rates and contracts with brokers moving forward.
- The divestiture buyer also will have the opportunity to interview and hire Aetna's current employees with expertise related to the individual PDP business, and Defendants have agreed to waive any non-compete, confidentiality, or non-disclosure employment provisions that would otherwise prevent these employees from accepting positions with the individual PDP business of the acquirer. These employees and their knowledge of drug-manufacturer rebates (volume-based discounts on the price of brand name drugs) will provide the acquirer with the option of continuing Aetna's approach to the market.

Taken together, these assets constitute the entirety of Aetna's individual PDP business and will provide the acquirer with a similar ability and incentive to compete as Aetna has today.

Because the divested assets will be separated from Aetna and incorporated into the acquirer's business, the proposed Final Judgment includes provisions to foster the seamless and efficient transition of the assets. At the acquirer's option, Defendants are required to enter into an administrative services agreement to provide the acquirer all services required to manage the divestiture assets through the remainder of the 2018 plan year and through the 2019 plan year, which ends on December 31, 2019. This provision of the proposed Final Judgment provides continuity to members who purchase an Aetna individual PDP during the open-enrollment period running from October through December 2018. Because CMS has already reviewed and approved Aetna's proposed 2019 plans, requiring Aetna to continue to provide the requisite support and services for these plans will ensure that members receive the products that they have chosen. Among other things, the proposed Final Judgment allows the acquirer to rely on Aetna to assemble and contract with pharmacy networks, administer the plans' formularies, and provide back-office support and claims administration functions in 2019. Additionally, CVS and Aetna must allow the acquirer to use the Aetna brand for the divestiture assets through at least December 31, 2019, and CVS and Aetna are prohibited, through 2020, from using the Aetna brand for the CVS individual PDP business that they are retaining. This will provide the acquirer with a window to establish a relationship with current Aetna individual PDP beneficiaries which will help avoid consumer confusion.

B. The Divestiture Process

The proposed Final Judgment requires CVS and Aetna, within 30 days of the filing of the Complaint, to divest, as a viable ongoing business, Aetna's individual PDP business. The proposed Final Judgment also requires CVS and Aetna expeditiously to obtain all regulatory approvals necessary to complete the divestiture, specifying that they must apply for these approvals within five calendar days of the United States' approval of a divestiture buyer. CVS and Aetna have already entered into an agreement to sell the divestiture assets to WellCare, a health insurance company, and the United States has determined that WellCare is a suitable buyer for the divestiture assets. WellCare already has experience providing individual PDPs throughout the United States. The divestiture assets, when combined with WellCare's existing business, will allow WellCare to become more competitive for both low-income subsidy and non-low-income subsidy Medicare beneficiaries by providing WellCare with increased scale and the opportunity to incorporate and build upon Aetna's existing strategy by hiring current Aetna employees.

Should the sale of the divestiture assets to WellCare not be completed, the assets must be divested in a way that satisfies the United States in its sole discretion that the assets can and will be operated by another company as a viable, ongoing business that can compete effectively in the relevant markets. CVS and Aetna must take all reasonable steps necessary to accomplish the divestiture quickly and to cooperate with prospective buyers.

If Defendants do not accomplish the divestiture within the 30 days prescribed in the proposed Final Judgment, the proposed Final Judgment provides that the Court will appoint a Divestiture Trustee, selected by the United States and paid for by CVS and Aetna, to effect the divestiture. After the Divestiture Trustee is appointed, the Trustee will file monthly reports with the United States and, as appropriate, the Court, setting forth his or her efforts to accomplish the divestiture. At

the end of six months, if the divestiture has not been accomplished, the Divestiture Trustee and the United States will make recommendations to the Court, which will enter such orders as appropriate under the circumstances.

C. *Provisions to Ensure Compliance*

To ensure a smooth transition process for the divestiture assets, particularly during the temporary period when they will be managed by CVS, the proposed Final Judgment provides that the United States may appoint a Monitoring Trustee with the power and authority to investigate and report on Defendants' compliance with the terms of the Final Judgment and the Asset Preservation Stipulation and Order during the pendency of the divestiture. The Monitoring Trustee would not have any responsibility or obligation for the operation of Defendants' businesses. The Monitoring Trustee would serve at Defendants' expense, on such terms and conditions as the United States approves, and Defendants must assist the Trustee in fulfilling his or her obligations. The Monitoring Trustee would file reports with the United States and, as appropriate, the Court, every 90 days and would serve until the later of January 1, 2020 or the expiration of the administrative services agreement described in Paragraph IV(H) of the Final Judgment.

The proposed Final Judgment also contains provisions designed to promote compliance and make the enforcement of Division consent decrees as effective as possible. The proposed Final Judgment provides the United States with the ability to investigate Defendants' compliance with the Final Judgment and expressly retains and reserves all rights for the United States to enforce the provisions of the proposed Final Judgment, including its rights to seek an order of contempt from the Court. Defendants have agreed that in any civil contempt action, any motion to show cause, or any similar action brought by the United States regarding an alleged violation of the Final Judgment, the United States may establish the violation and the appropriateness of any remedy by a preponderance of the evidence and that Defendants have waived any argument that a different standard of proof should apply. This provision aligns the standard for compliance obligations with the standard of proof that applies to the underlying offense that the compliance commitments address.

Paragraph XV(B) provides additional clarification regarding the interpretation of the provisions of the proposed Final Judgment. The proposed Final Judgment was drafted to restore competition that would otherwise be harmed by the merger. Defendants agree that they will abide by the proposed Final Judgment and that they may be held in contempt of this Court for failing to comply with any provision of the proposed Final Judgment that is stated specifically and in reasonable detail, as interpreted in light of this procompetitive purpose.

Should the Court find in an enforcement proceeding that Defendants have violated the Final Judgment, the United States may apply to the Court for a one-time extension of the Final Judgment, together with such other relief as may be appropriate. In addition, in order to compensate American taxpayers for any costs associated with the investigation and enforcement of violations of the Final Judgment, Defendants agree to reimburse the United States for attorneys' fees, experts' fees, and costs, including fees and costs relating to the investigation of the potential violation, incurred in connection with any successful effort by the United States to enforce the Final Judgment against a Defendant, whether litigated or resolved before litigation.

The Final Judgment will expire ten years from the date of its entry. After five years, however, the United States may request that the Court terminate the Final Judgment if the divestitures have been completed and the continuation of the Final Judgment is no longer necessary or in the public interest.

IV. Remedies Available To Potential Litigants

Section 4 of the Clayton Act, 15 U.S.C. § 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. § 16(a), the proposed Final Judgment has no prima facie effect in any subsequent private lawsuit that may be brought against Defendants.

V. Procedures Available for Modification of the Proposed Final Judgment

The United States and Defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least 60 days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within 60 days of the date of publication of this Competitive Impact Statement in the **Federal Register**, or the last date of publication in a newspaper of the summary of this Competitive Impact Statement, whichever is later. All comments received during this period will be considered by the United States, which remains free to withdraw its consent to the proposed Final Judgment at any time before the Court's entry of judgment. The comments and the response of the United States will be filed with the Court. In addition, comments will be posted on the U.S. Department of Justice, Antitrust Division's internet website and, under certain circumstances, published in the **Federal Register**.

Written comments should be submitted to:

Peter Mucchetti,
Chief, Healthcare and Consumer Products Section,
Antitrust Division,
United States Department of Justice,
450 Fifth Street NW, Suite 4100,
Washington, DC 20530

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. Alternatives to the Proposed Final Judgment

The United States considered, as an alternative to the proposed Final Judgment, a full trial on the merits against Defendants. The United States could have continued the litigation and sought preliminary and permanent injunctions against CVS's acquisition of Aetna. The United States is satisfied, however, that the divestiture of assets described in the proposed Final Judgment will preserve competition for the sale of individual PDPs in the relevant markets identified by the United States. Thus, the proposed Final Judgment would achieve all or substantially all of the relief the United States would have obtained through litigation, but avoids the time, expense, and uncertainty of a full trial on the merits of the Complaint.

VII. Standard of Review Under the APPA for the Proposed Final Judgment

The Clayton Act, as amended by the APPA, requires that proposed consent judgments in antitrust cases brought by the United States be subject to a 60-day comment period, after which the court shall determine whether entry of the proposed Final Judgment ''is in the public interest.'' 15 U.S.C. § 16(e)(1). In making that determination, the court, in accordance with the statute as amended in 2004, is required to consider:

(A) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and

(B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. § 16(e)(1)(A) & (B). In considering these statutory factors, the court's inquiry is necessarily a limited one as the government is entitled to ''broad discretion to settle with the defendant within the reaches of the public interest.'' *United States v. Microsoft Corp.,* 56 F.3d 1448, 1461 (D.C. Cir. 1995); *see generally United States v. SBC Commc'ns, Inc.,* 489 F. Supp. 2d 1 (D.D.C. 2007) (assessing public interest standard under the Tunney Act); *United States v. U.S. Airways Group, Inc.,* 38 F. Supp. 3d 69, 75 (D.D.C. 2014) (noting the court has broad

discretion of the adequacy of the relief at issue); *United States v. InBev N.V./S.A.,* No. 08–1965 (JR), 2009–2 Trade Cas. (CCH) ¶ 76,736, 2009 U.S. Dist. LEXIS 84787, at *3, (D.D.C. Aug. 11, 2009) (noting that the court's review of a consent judgment is limited and only inquires ''into whether the government's determination that the proposed remedies will cure the antitrust violations alleged in the complaint was reasonable, and whether the mechanism to enforce the final judgment are clear and manageable'').[1]

As the U.S. Court of Appeals for the District of Columbia Circuit has held, under the APPA a court considers, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. *See Microsoft,* 56 F.3d at 1458–62. With respect to the adequacy of the relief secured by the decree, a court may not ''engage in an unrestricted evaluation of what relief would best serve the public.'' *United States v. BNS, Inc.,* 858 F.2d 456, 462 (9th Cir. 1988) (quoting *United States v. Bechtel Corp.,* 648 F.2d 660, 666 (9th Cir. 1981)); *see also Microsoft,* 56 F.3d at 1460–62; *United States v. Alcoa, Inc.,* 152 F. Supp. 2d 37, 40 (D.D.C. 2001); *InBev,* 2009 U.S. Dist. LEXIS 84787, at *3. Courts have held that:

[t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is ''*within the reaches of the public interest.*'' More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.

Bechtel, 648 F.2d at 666 (emphasis added) (citations omitted).[2] In determining whether a proposed settlement is in the public interest, a district court ''must accord deference to the government's predictions about the efficacy of its remedies, and may not require that the remedies perfectly match the alleged violations.'' *SBC Commc'ns,* 489 F. Supp. 2d at 17; *see also U.S. Airways,* 38 F. Supp. 3d at 75 (noting that a court should not reject the proposed remedies because it believes others are preferable); *Microsoft,* 56 F.3d at 1461 (noting the need for courts to be ''deferential to the government's predictions as to the effect of the proposed remedies''); *United States* v. *Archer-Daniels-Midland Co.,* 272 F. Supp. 2d 1, 6 (D.D.C. 2003) (noting that the court should grant due respect to the United States' prediction as to the effect of proposed remedies, its perception of the market structure, and its views of the nature of the case).

Courts have greater flexibility in approving proposed consent decrees than in crafting their own decrees following a finding of liability in a litigated matter. ''[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.' '' *United States* v. *Am. Tel. & Tel. Co.,* 552 F. Supp. 131, 151 (D.D.C. 1982) (citations omitted) (quoting *United States* v. *Gillette Co.,* 406 F. Supp. 713, 716 (D. Mass. 1975)), *aff'd sub nom. Maryland* v. *United States,* 460 U.S. 1001 (1983); *see also U.S. Airways,* 38 F. Supp. 3d at 74 (noting that room must be made for the government to grant concessions in the negotiation process for settlements (citing *Microsoft,* 56 F.3d at 1461)); *United States* v. *Alcan Aluminum Ltd.,* 605 F. Supp. 619, 622 (W.D. Ky. 1985) (approving the consent decree even though the court would have imposed a greater remedy). To meet this standard, the United States ''need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms.'' *SBC Commc'ns,* 489 F. Supp. 2d at 17.

Moreover, the court's role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its Complaint, and does not authorize the court to ''construct [its] own hypothetical case and then evaluate the decree against that case.'' *Microsoft,* 56 F.3d at 1459; *see also U.S. Airways,* 38 F. Supp. 3d at 74 (noting that the court must simply determine whether there is a factual foundation for the government's decisions such that its conclusions regarding the proposed settlements are reasonable); *InBev,* 2009 U.S. Dist. LEXIS 84787, at *20 (''[T]he 'public interest' is not to be measured by comparing the violations alleged in the complaint against those the court believes could have, or even should have, been alleged.''). Because the ''court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place,'' it follows that ''the court is only authorized to review the decree itself,'' and not to ''effectively redraft the complaint'' to inquire into other matters that the United States did not pursue. *Microsoft,* 56 F.3d at 1459–60. As this Court recently confirmed in *SBC Communications,* courts ''cannot look beyond the complaint in making the public interest determination unless the complaint is drafted so narrowly as to make a mockery of judicial power.'' *SBC Commc'ns,* 489 F. Supp. 2d at 15.

In its 2004 amendments, Congress made clear its intent to preserve the practical benefits of utilizing consent decrees in antitrust enforcement, adding the unambiguous instruction that ''[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene.'' 15 U.S.C. § 16(e)(2); *see also U.S. Airways,* 38 F. Supp. 3d at 75 (indicating that a court is not required to hold an evidentiary hearing or to permit intervenors as part of its review under the Tunney Act). The language wrote into the statute what Congress intended when it enacted the Tunney Act in 1974, as Senator Tunney explained: ''[t]he court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.'' 119 Cong. Rec. 24,598 (1973) (statement of Sen. Tunney). Rather, the procedure for the public interest determination is left to the discretion of the court, with the recognition that the court's ''scope of review remains sharply proscribed by precedent and the nature of Tunney Act proceedings.'' *SBC Commc'ns,* 489 F. Supp. 2d at 11.[3] A court can make its public interest determination based on the competitive impact statement and response to public comments alone. *U.S. Airways,* 38 F. Supp. 3d at 75.

VIII. Determinative Documents

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

Dated: October 10, 2018.

Respectfully submitted,

Jay D. Owen,
Andrew J. Robinson, U.S. Department of Justice, Antitrust Division, 450 Fifth Street NW, Suite 4100, Washington, DC 20530, Tel.: (202) 598–2987, Fax: (202) 616–2441, E-mail: *Jay.Owen@usdoj.gov.*

[FR Doc. 2018–22665 Filed 10–16–18; 8:45 am]

BILLING CODE 4410–11–P

[1] The 2004 amendments substituted ''shall'' for ''may'' in directing relevant factors for courts to consider and amended the list of factors to focus on competitive considerations and to address potentially ambiguous judgment terms. *Compare* 15 U.S.C. § 16(e) (2004), *with* 15 U.S.C. § 16(e)(1) (2006); *see also SBC Commc'ns,* 489 F. Supp. 2d at 11 (concluding that the 2004 amendments ''effected minimal changes'' to Tunney Act review).

[2] *Cf. BNS,* 858 F.2d at 464 (holding that the court's ''ultimate authority under the [APPA] is limited to approving or disapproving the consent decree''); *United States* v. *Gillette Co.,* 406 F. Supp. 713, 716 (D. Mass. 1975) (noting that, in this way, the court is constrained to ''look at the overall picture not hypercritically, nor with a microscope, but with an artist's reducing glass''). *See generally Microsoft,* 56 F.3d at 1461 (discussing whether ''the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest' '').

[3] *See United States* v. *Enova Corp.,* 107 F. Supp. 2d 10, 17 (D.D.C. 2000) (noting that the ''Tunney Act expressly allows the court to make its public interest determination on the basis of the competitive impact statement and response to comments alone''); *United States* v. *Mid-Am. Dairymen, Inc.,* No. 73–CV–681–W–1, 1977–1 Trade Cas. (CCH) ¶ 61,508, at 71,980, *22 (W.D. Mo. 1977) (''Absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should . . . carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.''); S. Rep. No. 93–298, at 6 (1973) (''Where the public interest can be meaningfully evaluated simply on the basis of briefs and oral arguments, that is the approach that should be utilized.'').

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; National Guard Youth ChalleNGe Job ChalleNGe Evaluation; Office of the Secretary

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting the information collection request (ICR) proposal titled, ''National Guard Youth ChalleNGe Job ChalleNGe Evaluation,'' to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995. Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before November 16, 2018.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov website at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201804-1290-001* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–ASP, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor–OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW, Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: This ICR seeks PRA authority for the National Guard Youth ChalleNGe Job ChalleNGe Evaluation information collection that is designed to gain an understanding of the implementation of the DOL Job ChalleNGe grant and the experiences and outcomes of participants in the three (3) grantee sites that were awarded Job ChalleNGe grants in 2015. Specifically covered by this request are a monthly text message survey designed to get a snapshot of a student's progress and a follow-up survey administered sixteen (16) months after a participant starts the program. Workforce Investment Act section 172 authorizes this information collection. *See* 29 U.S.C. 2917.

This proposed information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. For additional information, see the related notice published in the **Federal Register** on November 3, 2017 (82 FR 51299).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB ICR Reference Number 201804–1290–001. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including 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.

Agency: DOL–ASP.

Title of Collection: National Guard Youth ChalleNGe Job ChalleNGe Evaluation.

OMB ICR Reference Number: 201804–1290–001.

Affected Public: Individuals or Households.

Total Estimated Number of Respondents: 255.

Total Estimated Number of Responses: 1,074.

Total Estimated Annual Time Burden: 97 hours.

Total Estimated Annual Other Costs Burden: $0.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: October 10, 2018.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2018–22556 Filed 10–16–18; 8:45 am]

BILLING CODE 4510–HX–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[18–073]

Notice of Availability of the Record of Decision for NASA Groundwater Cleanup Activities at Santa Susana Field Laboratory

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of availability of the Record of Decision (ROD).

SUMMARY: NASA has prepared a Record of Decision (ROD) for groundwater cleanup activities detailed in the Final Environmental Impact Statement for Proposed Demolition and Environmental Cleanup Activities at Santa Susana Field Laboratory, Ventura County, California. The Santa Susana Field Laboratory (SSFL) Groundwater ROD can be found at *https://ssfl.msfc.nasa.gov.*

FOR FURTHER INFORMATION CONTACT: Peter Zorba, SSFL Project Director, by email at *msfc-ssfl-eis@mail.nasa.gov*. Additional information about NASA's SSFL site, the proposed demolition and cleanup activities, and the associated planning process and documentation (as available) may be found on the internet at *https://ssfl.msfc.nasa.gov* or on the California Department of Toxic Substances Control (DTSC) website at *https://www.dtsc.ca.gov/SiteCleanup/Santa_Susana_Field_Lab/.*

SUPPLEMENTARY INFORMATION:

SSFL Site Background

The SSFL site is 2,850 acres located in Ventura County, California, approximately 7 miles northwest of

Canoga Park and approximately 30 miles northwest of downtown Los Angeles. SSFL is composed of four areas known as Areas I, II, III, and IV and two unnumbered areas known as the ''undeveloped land.'' NASA administers 41.7 acres within Area I and all 409.5 acres of Area II. The Boeing Company (Boeing) manages the remaining 2,398.8 acres within Areas I, III, IV, and the two undeveloped areas.

Since the mid-1950s, when SSFL was administered by the U.S. Air Force, this site has been used for developing and testing rocket engines. All NASA rocket and component testing was completed in 2006. Four test stand complexes were constructed in Area II between 1954 and 1957 named Alfa, Bravo, Coca, and Delta. These test stand areas along with the Liquid Oxygen (LOX) Plant portion of Area I were acquired by NASA from the U.S. Air Force in the 1970s.

Previous environmental sampling on the NASA-administered property indicates that contaminants are present in groundwater beneath the site. NASA's proposed cleanup actions are summarized in the Groundwater Cleanup ROD.

Environmental Commitments and Associated Environmental Review

Rocket engine testing has been discontinued at these sites and the property has been excessed to the General Services Administration (GSA). GSA has conditionally accepted the Report of Excess pending certain environmental cleanup requirements are met.

In 2007, a Consent Order among NASA, Boeing, the U.S. Department of Energy, and DTSC was signed addressing demolition of certain infrastructure and environmental cleanup of SSFL. NASA entered into an Administrative Order on Consent (AOC) for Remedial Action with DTSC on December 6, 2010, ''to further define and make more specific NASA's obligations with respect to the cleanup of soils at the Site.'' Based on the 2010 Order, NASA is required to complete a federal environmental review pursuant to the National Environmental Policy Act and NASA Procedural Requirement (NPR) 8580.1.

NASA published a Final Environmental Impact Statement for demolition of site infrastructure, soil cleanup pursuant to the AOC, and groundwater remediation within Area II and a portion of Area I (former LOX Plant) of SSFL on March 14, 2014 (79 **Federal Register** 14545). NASA subsequently issued a ROD for building demolition on April 23, 2014. The Associate Administrator for Mission Support Directorate signed the Groundwater Cleanup ROD on October 4, 2018, which constitutes the final decision by NASA for groundwater cleanup at SSFL.

Cheryl E. Parker,

Federal Register Liaison Officer.

[FR Doc. 2018–22660 Filed 10–16–18; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL FOUNDATION OF THE ARTS AND THE HUMANITIES

Institute of Museum and Library Services

38th Meeting of the National Museum and Library Services Board

AGENCY: Institute of Museum and Library Services (IMLS), National Foundation of the Arts and the Humanities (NFAH).

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, notice is hereby given that the National Museum and Library Services Board will meet to advise the Director of the Institute of Museum and Library Services (IMLS) with respect to duties, powers, and authority of IMLS relating to museum, library, and information services, as well as coordination of activities for the improvement of these services.

Dates and Time: The meeting will be held on November 1, 2018, from 9:00 a.m. until adjourned.

Place: The meeting will be held at 955 L'Enfant Plaza SW, Suite 4000, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Katherine Maas, Project Specialist and Alt. Designated Federal Officer, Institute of Museum and Library Services, Suite 4000, 955 L'Enfant Plaza North SW, Washington, DC 20024; (202) 653–4798; *kmaas@imls.gov* (mailto: *kmaas@imls.gov*).

SUPPLEMENTARY INFORMATION: The National Museum and Library Services Board is meeting pursuant to the National Museum and Library Service Act, 20 U.S.C. 9105a, and the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C. App.

The 38th Meeting of the National Museum and Library Services Board will be held on November 1, 2018. A plenary session (open to the public) will convene at 9:00 a.m., followed by an Executive Session (closed to the public) discussion of specific agreements and programs before the Board.

The agency for the plenary session of the National Museum and Library Services Board will be as follows:

I. Welcome and Director's Report
II. Approval of Minutes
III. Office of Library Services Report
IV. Office of Museum Services Report
V. Office of Digital and Information Strategy Report
VI. Financial and Operations Report
VII. Legislative and Policy Report

As identified above, portions of the meeting of the National Museum and Library Services Board will be closed to the public pursuant to subsections (c)(4), (c)(6) and (c)(9) of section 552b of Title 5, United States Code, as amended. The closed session will consider information that may disclose: Trade secrets and commercial or financial information obtained from a person and privileged or confidential; and information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action.

If you wish to attend the public session of the meeting, please inform IMLS as soon as possible by contacting Katherine Maas at (202) 653–4798 or *kmaas@imls.gov.* Please provide advance notice of any special needs or accommodations.

Meetings of the National Museum and Library Services Board were previously noticed under the Government in Sunshine Act, 5 U.S.C. 552b. With the passage of the Presidential Appointment Efficiency and Streamlining Act of 2011, Public Law 112–166, and subsequent appointments to the Board, the provisions of FACA are now applicable. A FACA committee charter for the Board, reflecting its statutory authority set out in 20 U.S.C. Section 9105a, has been established and filed.

Dated: October 12, 2018.

Danette Hensley,

Staff Assistant, Office of the General Counsel.

[FR Doc. 2018–22618 Filed 10–16–18; 8:45 am]

BILLING CODE 7036–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities

Meeting of Humanities Panel

AGENCY: National Endowment for the Humanities, National Foundation on the Arts and the Humanities.

ACTION: Notice of meeting.

SUMMARY: The National Endowment for the Humanities will hold nineteen meetings of the Humanities Panel, a

federal advisory committee, during November 2018. The purpose of the meetings is for panel review, discussion, evaluation, and recommendation of applications for financial assistance under the National Foundation on the Arts and Humanities Act of 1965.

DATES: See **SUPPLEMENTARY INFORMATION** for meeting dates. The meetings will open at 8:30 a.m. and will adjourn by 5:00 p.m. on the dates specified below.

ADDRESSES: The meetings will be held at Constitution Center at 400 7th Street SW, Washington, DC 20506, unless otherwise indicated.

FOR FURTHER INFORMATION CONTACT: Elizabeth Voyatzis, Committee Management Officer, 400 7th Street SW, Room 4060, Washington, DC 20506; (202) 606–8322; *evoyatzis@neh.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given of the following meetings:

1. Date: November 1, 2018

This meeting will discuss applications on the topics of American History and Studies, for Kluge Fellowships, submitted to the Division of Research Programs.

2. Date: November 1, 2018

This meeting will discuss applications on the topic of World Studies: Modern Era, for the Humanities Collections and Reference Resources grant program, submitted to the Division of Preservation and Access.

3. Date: November 2, 2018

This meeting will discuss applications on the topics of U.S. History and Culture, for the Media Projects: Development Grants, submitted to the Division of Public Programs.

4. Date: November 5, 2018

This meeting will discuss applications on the topics of Regional History and Culture, for the Media Projects: Production Grants, submitted to the Division of Public Programs.

5. Date: November 5, 2018

This meeting will discuss applications on the topics of Music and Performing Arts, for the Humanities Collections and Reference Resources grant program, submitted to the Division of Preservation and Access.

6. Date: November 6, 2018

This meeting will discuss applications on the topics of Civics and Culture, for the Public Humanities Projects: Community Conversations grant program, submitted to the Division of Public Programs.

7. Date: November 7, 2018

This meeting will discuss applications on the topics of U.S. History and Culture, for the Media Projects: Production Grants, submitted to the Division of Public Programs.

8. Date: November 7, 2018

This meeting will discuss applications on the topic of Indigenous Studies, for the Humanities Collections and Reference Resources grant program, submitted to the Division of Preservation and Access.

9. Date: November 8, 2018

This meeting will discuss applications on the topic of U.S. History: Social, for the Humanities Collections and Reference Resources grant program, submitted to the Division of Preservation and Access.

10. Date: November 8, 2018

This meeting will discuss applications on the topics of History and Culture, for the Public Humanities Projects: Exhibitions (Implementation) grant program, submitted to the Division of Public Programs.

11. Date: November 8, 2018

This meeting will discuss applications for the Humanities Open Book Program, submitted to the Office of Digital Humanities.

12. Date: November 9, 2018

This meeting will discuss applications on the topic of International Topics, for the Media Projects: Development Grants, submitted to the Division of Public Programs.

13. Date: November 13, 2018

This meeting will discuss applications on the topics of Series and Podcasts, for the Media Projects: Production Grants, submitted to the Division of Public Programs.

14. Date: November 14, 2018

This meeting will discuss applications on the topics of History and Culture, for the Public Humanities Projects: Exhibitions (Implementation) grant program, submitted to the Division of Public Programs.

15. Date: November 19, 2018

This meeting will discuss applications on the topic of U.S. History, for the Public Humanities Projects: Community Conversations grant program, submitted to the Division of Public Programs.

16. Date: November 20, 2018

This meeting will discuss applications on the topic of American Studies, for the Public Humanities Projects: Exhibitions (Implementation) grant program, submitted to the Division of Public Programs.

17. Date: November 27, 2018

This meeting will discuss applications on the topic of History of Science, Technology, and Medicine, for the Humanities Collections and Reference Resources grant program, submitted to the Division of Preservation and Access.

18. Date: November 29, 2018

This meeting will discuss applications on the topic of U.S. History: Military and Political, for the Humanities Collections and Reference Resources grant program, submitted to the Division of Preservation and Access.

19. Date: November 30, 2018

This meeting will discuss applications on the topic of World Studies: Ancient World to Medieval Era, for the Humanities Collections and Reference Resources grant program, submitted to the Division of Preservation and Access.

Because these meetings will include review of personal and/or proprietary financial and commercial information given in confidence to the agency by grant applicants, the meetings will be closed to the public pursuant to sections 552b(c)(4) and 552b(c)(6) of Title 5, U.S.C., as amended. I have made this determination pursuant to the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings dated April 15, 2016.

Dated: October 11, 2018.

Elizabeth Voyatzis,

Committee Management Officer, National Endowment for the Humanities.

[FR Doc. 2018–22544 Filed 10–16–18; 8:45 am]

BILLING CODE 7536–01–P

NEIGHBORHOOD REINVESTMENT CORPORATION

Sunshine Act Meetings; Regular Board of Directors Meeting

TIME AND DATE: 1:30 p.m., Tuesday, October 30, 2018.

PLACE: NeighborWorks America—Gramlich Boardroom, 999 North Capitol Street NE, Washington DC 20002.

STATUS: Open (with the exception of Executive Session).

MATTERS TO BE CONSIDERED:

The General Counsel of the Corporation has certified that in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552 (b)(2) and (4) permit closure of the following portion(s) of this meeting:

- Report from CEO.
- Internal Audit Report.

Agenda

I. CALL TO ORDER
II. Approval of Minutes
III. Executive Session: Report from CEO
IV. Executive Session: Internal Audit Update
V. FY2019 Risk Assessment & Internal Audit Plan
VI. Internal Audit Reports with Management's Response
VII. Internal Audit Status Reports
VIII. FY19 Corporate Goals
IX. 40th Anniversary Event
X. Board Meeting Yearly Schedule
XI. Action Items for Next 6–9 Months
XII. Management Program Background and Updates
XIII. Adjournment

CONTACT PERSON FOR MORE INFORMATION: Rutledge Simmons, EVP & General Counsel/Secretary, (202) 760–4105; *Rsimmons@nw.org.*

Rutledge Simmons,

EVP & General Counsel/Corporate Secretary.

[FR Doc. 2018–22741 Filed 10–15–18; 4:15 pm]

BILLING CODE 7570–02–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–0271; NRC–2017–0125]

NorthStar Group Services, Inc.; Vermont Yankee Nuclear Power Station

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an exemption in response to a May 25, 2018, request from NorthStar Group Services, Inc. (NorthStar), on behalf of Entergy Nuclear Vermont Yankee, LLC (ENVY, to be known as NorthStar Vermont Yankee, LLC or NorthStar VY following consummation of the license transfer described below). The exemption would allow NorthStar VY to use up to $20 million in funds from the Vermont Yankee Nuclear Power Station (VY) nuclear decommissioning trust fund (NDT), on a revolving basis, for irradiated fuel management activities. By Order dated October 11, 2018, the NRC approved the request for the direct and indirect transfer of VY Renewed Facility Operating License No. DPR–28. This exemption is being issued simultaneously with the license transfer Order and will be effective upon the NRC's issuance of a conforming license amendment reflecting NorthStar VY and NorthStar NDC as the licensees for VY, following consummation of the license transfer transaction.

ADDRESSES: Please refer to Docket ID NRC–2017–0125 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0125. 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.
- *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 ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Jack Parrott, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6634; email: *Jack.Parrott@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Vermont Yankee Nuclear Power Station is a single unit General Electric Mark-1 boiling water reactor (MWt 1,912) that was issued an operating license on March 21, 1972. The facility is located in Vernon, Vermont. ENVY and Entergy Nuclear Operations, Inc. (ENOI), are the current holders of Renewed Facility Operating License No. DPR–28 for VY. VY has not operated since December 29, 2014. By letter dated January 12, 2015 (ADAMS Accession No. ML15013A426), in accordance with sections 50.82(a)(1)(i) and (ii) of title 10 of the *Code of Federal Regulations* (10 CFR), ENOI certified that VY had permanently ceased operations on December 29, 2014, and had permanently removed all fuel from the reactor vessel. Since January 12, 2015, ENVY and ENOI have been performing minor decommissioning activities while in SAFSTOR.

By letter dated February 9, 2017 (ADAMS Accession No. ML17045A140), ENOI, on behalf of itself and ENVY, and NorthStar Nuclear Decommissioning Company, LLC (NorthStar NDC), requested that the NRC consent to the proposed direct and indirect transfer of control of VY Renewed Facility Operating License No. DPR–28, and the Vermont Yankee Independent Spent Fuel Storage Installation (ISFSI) general license. The proposed license transfer would involve the indirect transfer of control of the VY licenses to NorthStar Decommissioning Holdings, LLC, and its parent companies, NorthStar, LVI Parent Corp. and NorthStar Group Holdings, LLC. Following the license transfer, the new licensees would be NorthStar VY and NorthStar NDC.

By letter dated April 6, 2017 (ADAMS Accession No. ML17096A394), NorthStar provided a revised Post Shutdown Decommissioning Activities Report (revised PSDAR). The NorthStar revised PSDAR reflected the immediate and accelerated decommissioning of VY by NorthStar VY and NorthStar NDC to be completed within a 7-year period after the proposed transfer is approved. The revised PSDAR also contained the most recent decommissioning cost estimate pursuant to 10 CFR 50.82, ''Termination of license.''

The proposed exemption would allow NorthStar VY to use up to $20 million of funds on a revolving basis such that at any one time, up to $20 million of the NDT could be used for irradiated fuel management. By Order dated October 11, 2018, the NRC approved the license transfer request (ADAMS Accession No. ML18242A638). This exemption is being issued simultaneously with the license transfer Order, and will only apply to NorthStar VY and NorthStar NDC following consummation of the license transfer transaction and NRC issuance of the conforming license amendment reflecting the transfer.

II. Request/Action

By letter dated May 25, 2018 (ADAMS Accession No. ML18150A315), NorthStar, on behalf of ENVY (to be known as NorthStar VY after consummation of the license transfer), pursuant to 10 CFR 50.12, ''Specific Exemptions,'' submitted a request for an exemption to 10 CFR 50.82(a)(8)(i)(A), that would allow Vermont Yankee decommissioning trust funds to be used for irradiated fuel management. As stated in 10 CFR 50.82(a)(8)(i)(A), decommissioning trust funds may be used by a licensee if the withdrawals are for expenses for legitimate decommissioning activities consistent with the definition of decommissioning in 10 CFR 50.2. This definition addresses radiological decommissioning and does not include activities associated with irradiated fuel management. Therefore, NorthStar VY needs an exemption from 10 CFR 50.82(a)(8)(i)(A) to allow the use of funds from the NDT for irradiated fuel management activities.

NorthStar states that its cash flow analysis in Enclosure 1 of the application dated May 25, 2018, demonstrates that the NDT contains adequate funds to cover the estimated costs of radiological decommissioning and the additional funds for $20 million in irradiated fuel management activities that are covered by the exemption request. The adequacy of funds in the NDT to cover the costs of activities associated with radiological decommissioning and the additional funds for $20 million in irradiated fuel management activities through license termination is supported by NorthStar's revised PSDAR. NorthStar states that application of the 10 CFR 50.82(a)(8)(i)(A) requirement restricting use of the trust fund is not necessary to ensure that adequate funds will be available for the radiological decommissioning of VY. NorthStar also states that a permanent repository for irradiated nuclear fuel currently does not exist. Therefore, NorthStar states it is faced with circumstances that were not explicitly contemplated by the existing regulations, because it will not be possible to fully decommission VY and terminate the license without first arranging for interim storage of spent nuclear fuel at an on-site ISFSI. For these reasons, NorthStar states that an exemption is needed to avoid unnecessary and undue costs to cover irradiated fuel management expenses from other sources.

III. Discussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50, (1) when the exemptions are authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security; and (2) when any of the special circumstances listed in 10 CFR 50.12(a)(2) are present. These special circumstances include, among other things, the following:

(a) Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule; or

(b) Compliance would result in undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted, or that are significantly in excess of those incurred by others similarly situated.

A. The Exemption Is Authorized by Law

The proposed exemption from 10 CFR 50.82(a)(8)(i)(A) would allow NorthStar VY to use $20 million on a revolving basis from the NDT for irradiated fuel management, consistent with the revised PSDAR. As stated above, 10 CFR 50.12 allows the NRC to grant exemptions from the requirements of 10 CFR part 50 when the exemptions are authorized by law. The proposed exemption would not result in a violation of the Atomic Energy Act of 1954, as amended, or the Commission's regulations. Therefore, the exemption is authorized by law.

B. The Exemption Presents No Undue Risk to Public Health and Safety

The underlying purpose of 10 CFR 50.82(a)(8)(i)(A) is to provide reasonable assurance that adequate funds will be available for radiological decommissioning of power reactors. Based on the staff's review of the applicant's site-specific cost estimate and the staff's independent cash flow analysis, provided as Attachment 1 to the NRC staff's Safety Evaluation of the associated License Transfer Request (ADAMS Accession No. ML18242A639), the NRC staff finds that use of $20 million from the NDT, on a revolving basis, for irradiated fuel management activities will not adversely impact NorthStar VY and NorthStar NDC's ability to terminate the VY license (*i.e.,* complete radiological decommissioning) as planned, consistent with the schedule and costs contained in the revised PSDAR.

There are no new accident precursors created by using the decommissioning trust fund in the proposed manner. Thus, the probability of postulated accidents is not increased. Also, the consequences of postulated accidents are not increased. The exemption does not involve any significant changes to the types or amounts of effluents that may be released offsite as a result of site activities associated with radiological decommissioning and irradiated fuel management, only the potential funding sources for those activities would be impacted by the exemption. Similarly, there is no significant increase in occupational or public radiation exposure. This exemption does not diminish the effectiveness of other regulations that ensure available funding for decommissioning, including 10 CFR 50.82(a)(6) which prohibits licensees from performing any decommissioning activities that could foreclose release of the site for possible unrestricted use, result in significant environmental impacts not previously reviewed, or result in there no longer being reasonable assurance that adequate funds will be available for decommissioning. Therefore, the exemption will not present an undue risk to the public health and safety.

C. The Exemption Is Consistent With the Common Defense and Security

The requested exemption would allow NorthStar VY to use funds from the NDT for irradiated fuel management. Irradiated fuel management under 10 CFR 50.54(bb) is an integral part of the planned VY decommissioning and final license termination process and will not adversely affect NorthStar VY and NorthStar NDC's ability to physically secure the site or protect special nuclear material. This change to enable the use of a portion of the funds from the NDT for activities other than decommissioning activities has no relation to security issues. Therefore, the common defense and security is not impacted by the requested exemption.

D. Special Circumstances

According to 10 CFR 50.12(a)(2), the NRC will not consider granting an exemption to its regulations unless special circumstances are present. Special circumstances, in accordance with 10 CFR 50.12(a)(2)(ii), are present whenever application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the regulation.

The underlying purpose of 10 CFR 50.82(a)(8)(i)(A) is to provide reasonable assurance that adequate funds will be available for radiological

decommissioning of power reactors. Strict application of the rule would prohibit withdrawal of funds from the NDT for activities associated with irradiated fuel management until final radiological decommissioning at VY has been completed. Based on the NRC staff's review of NorthStar's submittals, the staff has determined that the revised PSDAR demonstrates reasonable assurance exists that funds within the NDT, when combined with a $140 million support agreement (ADAMS Accession No. ML18009A459), $30 million escrow account (ADAMS Accession No. ML18143B484), and anticipated future United States Department of Energy (DOE) reimbursements (ADAMS Accession No. ML17339A896), are in excess of the amount needed to cover the estimated costs of radiological decommissioning and irradiated fuel management. The NRC staff's conclusion is reflected in the independent cash flow analysis, provided as Attachment 1 to the NRC staff's Safety Evaluation of the License Transfer Request (ADAMS Accession No. ML18242A639), which considers the most conservative opening NDT balance in 2019 ($488 million), as indicated in NorthStar's letter dated June 28, 2018 (ADAMS Accession No. ML18183A220). The staff's cash flow analysis projects that the NDT may contain approximately $197 million at the end of license termination activities in 2053 (using a 2.0% real rate of return as indicated in the regulations) when the spent fuel is removed from the site and the ISFSI is decommissioned.

The NorthStar PSDAR reflected NorthStar VY and NorthStar NDC's intention to use the NDT for irradiated fuel management. In its application dated May 25, 2018, NorthStar states that use of NDT for irradiated fuel management costs will not exceed $20 million at any given time, and proposes that this ''not to exceed'' limitation be applied on a revolving basis. NorthStar further states that if it returns funds to the NDT through its anticipated DOE reimbursements, this would reduce the amount deemed withdrawn under the cumulative $20 million limitation.

Based on its review, the staff has determined that reasonable assurance exists that adequate funds will be available in the NDT to complete radiological decommissioning, license termination, and the irradiated fuel management activities within the scope of this exemption request.

Therefore, since the underlying purposes of the rule would be achieved while allowing NorthStar VY to use the NDT to fund the irradiated fuel management activities within the scope of the exemption, the special circumstances of 10 CFR 50.12(a)(2)(ii) are present, provided that the amounts withdrawn are limited to a total of $20 million at any given time.

Special circumstances, in accordance with 10 CFR 50.12(a)(2)(iii) are also present whenever compliance would result in undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted, or that are significantly in excess of those incurred by others similarly situated.

The NRC has stated that funding for irradiated fuel management may be commingled in the decommissioning trust provided the licensee is able to identify and account for the radiological decommissioning funds separately from the funds set aside for irradiated fuel management (see NRC Regulatory Issue Summary 2001–07, Rev 1, ''10 CFR 50.75 Reporting and Recordkeeping for Decommissioning Planning,'' dated January 8, 2009, and Regulatory Guide 1.184, Rev 1, ''Decommissioning of Nuclear Power Reactors''). As such, the NRC did not intend to prevent the use of these funds solely because they are commingled in the decommissioning trust, and to do so would create an unnecessary financial burden without any corresponding safety benefit. Consistent with this guidance, the NRC does not preclude use of funds from the NDT in excess of those needed for radiological decommissioning for other purposes, such as irradiated fuel management.

The adequacy of the NDT to cover both the cost of activities associated with decommissioning and the irradiated fuel management activities within the scope of this request is supported by the staff's cash flow analysis.

If NorthStar VY cannot use funds from the NDT for irradiated fuel management activities, it would be forced to provide additional funding that would not be recoverable from the NDT until the VY operating license is terminated. To prevent access to the excess funds in the decommissioning trust would impose an unnecessary and undue burden in excess of that contemplated when the regulation was adopted without any corresponding safety benefit.

Therefore, compliance with the rule would result in an undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted, or that are significantly in excess of those contemplated when the regulation was adopted, or that are significantly in excess of those incurred by others similarly situated. Accordingly, the special circumstances required by 10 CFR 50.12(a)(2)(iii) are present.

E. Environmental Considerations

In accordance with 10 CFR 51.31(a), the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (see Environmental Assessment and Finding of No Significant Impact published on October 10, 2018 (83 FR 50966).

IV. Conclusions

The NRC staff finds that the proposed exemption would confirm the availability for use of the NDT funds for irradiated fuel management activities in accordance with the revised PSDAR. The NRC staff also finds that there is reasonable assurance that adequate funds are available in the NDT to complete all activities associated with radiological decommissioning, license termination, and irradiated fuel management activities within the scope of this exemption request. Additionally, there is no decrease in safety associated with the NDT being used to fund activities associated with irradiated fuel management, limited to a total of $20 million at any given time.

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also, special circumstances are present. Therefore, the Commission hereby grants NorthStar VY and NorthStar NDC an exemption from 10 CFR 50.82(a)(8)(i)(A) to allow the use of up to $20 million of funds from the Vermont Yankee Nuclear Power Station nuclear decommissioning trust fund for purposes of managing irradiated fuel on a revolving basis.

This exemption is effective upon the NRC's issuance of a conforming license amendment reflecting NorthStar VY and NorthStar NDC as the licensees for VY, following NRC approval of the license transfer application and consummation of the transaction.

Dated at Rockville, Maryland, this 12th day of October 2018.

For the Nuclear Regulatory Commission.

John R. Tappert,

Director, Division of Decommissioning, Uranium Recovery and Waste Programs, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2018–22649 Filed 10–16–18; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2018–0232]

Environmental Dosimetry-Performance Specifications, Testing, and Data Analysis

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft regulatory guide; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment draft regulatory guide (DG), DG–4019, ''Environmental Dosimetry-Performance Specifications, Testing, and Data Analysis.'' This proposed revision (Revision 2) to Regulatory Guide (RG) 4.13 provides updated guidance that the NRC staff considers acceptable for performing surveys and evaluations of public dose in the unrestricted area and the controlled area of a licensed facility from direct radiation using environmental dosimetry. The DG endorses the American National Standards Institute/Health Physics Society (ANSI/HPS) N13.37–2014, ''Environmental Dosimetry—Criteria for System Design and Implementation.''

DATES: Submit comments by December 17, 2018. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Although a time limit is given, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

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–2018–0232. Address questions about NRC dockets to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail Comments to:* May Ma, Office of Administration, Mail Stop: OWFN–2A13, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. For additional direction on accessing information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Steven Garry, Office of Nuclear Reactor Regulation, telephone: 301–415–2766, email: *Steven.Garry@nrc.gov,* and Harriet Karagiannis, Office of Nuclear Regulatory Research, telephone: 301–415–2493, email: *Harriet.Karagiannis@nrc.gov.* Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2018–0232 when contacting the NRC about the availability of information regarding this document. You may obtain publically-available information related to this document, by any of the following methods:

- *Federal Rulemaking website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2018–0232.
- *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 DG is electronically available in ADAMS under Accession No. ML18087A169.
- *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–2018–0232 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 posts all comment submissions at *http://www.regulations.gov* as well as entering 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 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 submissions into ADAMS.

II. Additional Information

The NRC is issuing for public comment a DG in the NRC's ''Regulatory Guide'' series. This series was developed to describe and make available to the public information regarding methods that are acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques that the staff uses in evaluating specific issues or postulated events, and data that the staff needs in its review of applications for permits and licenses.

The DG, entitled, ''Environmental Dosimetry-Performance Specifications, Testing, and Data Analysis,'' is temporarily identified by its task number, DG–4019. DG–4019 is proposed Revision 2 to RG 4.13, dated July 1977. The title of the proposed Revision 2 is different than the title used for Revision 1. The title has changed to more clearly indicate the content of the regulatory guide, which includes data analysis suitable to assess potential facility-related radiation doses, and to broaden the scope beyond thermoluminescence dosimetry to include other types of dosimetry.

Revision 1 to RG 4.13 (1977), endorsed American National Standards Institute (ANSI) N545–1975, ''Performance, Testing, and Procedural Specifications for Thermoluminescence Dosimetry (Environmental Applications).'' ANSI standard N545–1975 has been replaced by American National Standards Institute/Health Physics Society (ANSI/HPS) N13.37–2014, ''Environmental Dosimetry—Criteria for System Design and Implementation,'' which provides improved environmental dosimetry system design criteria and dosimeter laboratory test protocols, as well as methods of data analysis suitable to assess potential facility-related radiation doses.

The proposed Revision 2 to RG 4.13 provides updated NRC guidance on an acceptable dosimetry program for monitoring direct radiation in the unrestricted area and the controlled area of a licensed facility by endorsing ANSI/HPS N13.37–2014. This ANSI/HPS standard provides up-to-date environmental dosimetry system design criteria and dosimeter laboratory test protocols, as well as methods of data analysis suitable to assess potential facility-related radiation doses.

III. Backfitting and Issue Finality

This RG provides guidance on establishing and conducting an environmental dosimetry program that the NRC staff considers acceptable for monitoring direct radiation released into the unrestricted area and the controlled area of a licensed facility. The NRC regards these requirements as constituting information collection and reporting requirements. The NRC has long taken the position that information collection and reporting requirements are not subject to the NRC's backfitting and issue finality regulations in 10 CFR 50.109, 10 CFR 70.76, 10 CFR 72.62, 10 CFR 76.76, and 10 CFR part 52 (*e.g.,* ''Material Control and Accounting Methods,'' December 23, 2002 (67 FR 78130); and ''Regulatory Improvements to the Nuclear Materials Management and Safeguards System,'' June 9, 2008 (73 FR 32453)). Therefore, the NRC has determined that its backfitting and issue finality regulations would not apply to this DG, if ultimately issued as a RG, because the RG does not include any provisions within the scope of matters covered by the backfitting provisions in 10 CFR parts 50, 70, 72, or 76, or the issue finality provisions of 10 CFR part 52.

Dated at Rockville, Maryland, this 11th day of October 2018.

For the Nuclear Regulatory Commission.

Thomas H. Boyce,

Chief, Regulatory Guidance and Generic Issues Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2018–22550 Filed 10–16–18; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket No. MC2019–4; Order No. 4853]

Mail Classification Schedule

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is recognizing a recent Postal Service filing concerning minor classification changes to correct the names of foreign countries that appear in various portions of the Mail Classification Schedule. This document informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* November 8, 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

On October 10, 2018, the Postal Service filed a notice of classification changes pursuant to Commission rule 39 CFR 3020.90.[1] The Postal Service seeks to correct the names of foreign countries that appear in various portions of the Mail Classification Schedule (MCS). Notice at 1. The changes are intended to take effect on January 27, 2019. *Id.*

II. Summary of Changes

The Postal Service proposes revisions to references to the names of a dozen foreign countries in the MCS, as well as a minor editorial change. The Postal Service states that ''[t]he purpose of these minor changes is to correct the names of foreign countries . . . so that the MCS accurately reflects current country names.'' *Id.*

The Postal Service avers that the proposed changes satisfy the requirements of 39 CFR 3020.90 because the changes should result in a more accurate representation of the Postal Service's offerings, the Notice is filed more than 15 days prior to the intended effective date, and the changes merely update or correct country names without changing product offerings or pricing. *Id.* at 1–2.

III. Notice of Commission Action

Pursuant to 39 CFR 3020.91, the Commission has posted the Notice on its website and invites comments on whether the Postal Service's filings are consistent with 39 CFR 3020 subpart E. Comments are due no later than November 8, 2018. The public portions of these filings can be accessed via the Commission's website (*http://www.prc.gov*).

The Commission appoints Richard A. Oliver to represent the interests of the general public (Public Representative) in this docket.

IV. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. MC2019–4 to consider matters raised by the Notice.

2. Comments by interested persons are due by November 8, 2018.

3. Pursuant to 39 U.S.C. 505, Richard A. Oliver is appointed to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

4. The Commission directs the Secretary of the Commission to arrange for prompt publication of this notice in the **Federal Register**.

By the Commission.

Stacy L. Ruble,

Secretary.

[FR Doc. 2018–22523 Filed 10–16–18; 8:45 am]

BILLING CODE 7710–FW–P

[1] Notice of United States Postal Service of Minor Classification Changes, October 10, 2018 (Notice).

POSTAL REGULATORY COMMISSION

[Docket No. MC2019–3; Order No. 4856]

Mail Classification Schedule

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is recognizing a recent Postal Service filing concerning an update to the maximum weight limit for Outbound Single-Piece First-Class Mail International (FCMI) Large Envelopes (Flats) in the Mail Classification Schedule. This document informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* November 13, 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

On October 10, 2018, the Postal Service filed a notice concerning an update to the maximum weight limit for Outbound Single-Piece First-Class Mail International (FCMI) Large Envelopes

(Flats), pursuant to 39 CFR 3020.111.[1] Specifically, the Postal Service intends to reduce the maximum weight limit from 64 ounces to 15.994 ounces to ''allow items tendered as FCMI flats to more closely correspond to the ''G'' format items in the Universal Postal Union (UPU) system.'' [2] The Postal Service states that the proposed update is consistent with the policies and the applicable criteria of chapter 36 of 39 U.S.C. because it helps achieve the objectives of section 3622(b) and takes into account the factors of section 3622(c). *Id.* at 3–6.

II. Notice of Commission Action

Pursuant to 39 CFR 3020.111(b), the Commission establishes Docket No. MC2019–3 to consider the proposed update to the maximum weight limit for Outbound Single-Piece FCMI Large Envelope (Flats), as provided in the Notice. The Commission invites comments from interested persons on whether the proposed update is consistent with the policies and applicable criteria of chapter 36 of title 39 of the United States Code. Comments are due no later than November 13, 2018. The public portions of these filings can be accessed via the Commission's website at *http://www.prc.gov.*

Pursuant to 39 U.S.C. 505, the Commission appoints Richard A. Oliver to represent the interests of the general public (Public Representative) in this docket.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. MC2019–3 to consider the proposed update to the maximum weight limit for Outbound Single-Piece First-Class Mail International Large Envelopes (Flats), as provided in the Postal Service's October 10, 2018 Notice.

2. Comments from interested persons are due by November 13, 2018.

3. Pursuant to 39 U.S.C. 505, Richard A. Oliver is appointed to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

4. The Commission directs the Secretary of the Commission to arrange for prompt publication of this notice in the **Federal Register**.

By the Commission.

Stacy L. Ruble,

Secretary.

[FR Doc. 2018–22663 Filed 10–16–18; 8:45 am]

BILLING CODE 7710–FW–P

[1] Notice of the United States Postal Service of Update to the Maximum Weight Limit for Outbound Single-Piece First-Class Mail International Large Envelopes (Flats) in the Mail Classification System, October 10, 2018 (Notice).

[2] Notice at 2. The Postal Service states that the proposed 15.994 ounces weight limit would approach the current Universal Postal Convention Regulation maximum weight of 500 grams (17.6 ounces) for large letter post letters (format G). *Id.*

POSTAL REGULATORY COMMISSION

[Docket No. CP2019–3; Order No. 4854]

Competitive Price Adjustment

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is recognizing a recently filed Postal Service document with the Commission concerning changes in rates of general applicability for competitive products. The changes are scheduled to take effect January 27, 2019. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* October 25, 2018.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction and Overview

On October 10, 2018, the Postal Service filed notice with the Commission concerning changes in rates of general applicability for competitive products.[1] The Postal Service represents that, as required by 39 CFR 3015.2(b), the Notice includes an explanation and justification for the changes, the effective date, and a schedule of the changed rates. *See* Notice at 1. The changes are scheduled to take effect on January 27, 2019. *Id.*

Attached to the Notice is Governors' Decisions No. 18–1, which state the new prices are in accordance with 39 U.S.C. 3632 and 3633 and 39 CFR 3015.2.[2] The Governors' Decisions provide an analysis of the competitive products' price changes intended to demonstrate that the changes comply with 39 U.S.C. 3633 and 39 CFR part 3015. Governor's Decisions No. 18–1 at 1. The attachment to the Governors' Decisions sets forth the price changes and includes draft Mail Classification Schedule (MCS) language for competitive products of general applicability.

The Governors' Decisions include two additional attachments:

- A partially redacted table showing FY 2019 projected volumes, revenues, attributable costs, contribution, and cost coverage for each product, assuming implementation of the new prices on January 27, 2019.
- A partially redacted table showing FY 2019 projected volumes, revenues, attributable costs, contribution, and cost coverage for each product, assuming a hypothetical implementation of the new prices on October 1, 2018.

The Notice also includes an application for non-public treatment of the attributable costs, contribution, and cost coverage data in the unredacted version of the annex to the Governors' Decisions, as well as the supporting materials for the data. Notice at 1–2.

Planned price adjustments. The Governors' Decisions include an overview of the Postal Service's planned price changes, which is summarized in the table below.

TABLE I–1—PROPOSED PRICE CHANGES

Product name	Average price increase (percent)
Domestic Competitive Products	
Priority Mail Express	3.9
Retail	3.9
Commercial Base	3.9
Commercial Plus	3.9
Priority Mail	5.9
Retail	6.6
Commercial Base	3.2
Commercial Plus	6.2
Parcel Select	
Traditional	9.3
Lightweight	12.3
Parcel Return Service	6.8

[1] Notice of Changes in Rates of General Applicability for Competitive Products Established in Governors' Decision No. 18–1, October 10, 2018 (Notice). Pursuant to 39 U.S.C. 3632(b)(2), the Postal Service is obligated to publish the Governors' Decision and record of proceedings in the **Federal Register** at least 30 days before the effective date of the new rates.

[2] Notice, Decision of the Governors of the United States Postal Service on Changes in Rates of General Applicability for Competitive Products (Governors' Decision No. 18–1), at 1 (Governors' Decision No. 18–1).

TABLE I–1—PROPOSED PRICE CHANGES—Continued

Product name	Average price increase (percent)
Return Sectional Center Facility	7.3
Return Delivery Unit	6.4
First-Class Package Service	12.3
Commercial	11.9
Retail	13.3
Retail Ground	3.9
Domestic Extra Services	
Premium Forwarding Service Enrollment Fee	4.9–11.1
Adult Signature Service	
Basic	8.5
Person-Specific	8.3
Competitive Post Office Box	10.0
Package Intercept Service	4.8
International Competitive Products	
Global Express Guaranteed	4.9
Priority Mail Express International	3.9
Priority Mail International	3.9
International Priority Airmail	19.9
International Priority Airmail M-Bags	19.9
International Surface Air Lift	19.9
International Surface Air Lift M-Bags	19.9
Airmail M-Bags	5.0
First-Class Package International Service	3.9
International Ancillary Services and Special Services	
International Ancillary Services	10.4

Source: *See* Governors' Decision No. 18–1 at 2–5; Mail Classification Schedule sections 2105.6, 2110.6, 2115.6, 2125.6, 2135.6, 2305.6, 2315.6, 2335.6, and 2510.9.6.

II. Initial Administrative Actions

The Commission establishes Docket No. CP2019–3 to consider the Postal Service's Notice. Interested persons may express views and offer comments on whether the planned changes are consistent with 39 U.S.C. 3632, 3633, and 3642, 39 CFR part 3015, and 39 CFR 3020 subparts B and E. Comments are due no later than October 25, 2018. For specific details of the planned price changes, interested persons are encouraged to review the Notice, which is available on the Commission's website at *www.prc.gov.*

Pursuant to 39 U.S.C. 505, Lawrence Fenster is appointed to serve as Public Representative to represent the interests of the general public in this docket.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. CP2019–3 to provide interested persons an opportunity to express views and offer comments on whether the planned changes are consistent with 39 U.S.C. 3632, 3633, and 3642, 39 CFR part 3015, and 39 CFR 3020 subparts B and E.

2. Comments are due no later than October 25, 2018.

3. Pursuant to 39 U.S.C. 505, the Commission appoints Lawrence Fenster to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this docket.

4. The Secretary shall arrange for publication of this Order in the **Federal Register**.

By the Commission.

Stacy L. Ruble,

Secretary.

[FR Doc. 2018–22542 Filed 10–16–18; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84411; File No. SR–NYSE–2018–47]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Fees for Routing Orders in UTP Securities Priced Below $1.00

October 11, 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 October 1, 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 fees for routing orders in UTP Securities priced below $1.00. The Exchange proposes to implement these changes to its Price List effective October 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 fees for routing orders in UTP Securities priced below $1.00.

The Exchange proposes to implement these changes to its Price List effective October 1, 2018.

Currently, for executions in securities with a price below $1.00 that route to and execute on an Away Market,[4] the Exchange charges a fee of 0.30% of the total dollar value of the transaction for executions in an Away Market auction as well as all other executions.

The Exchange proposes to amend this fee to charge $0.0005 per share execution in an NYSE American auction, $0.0010 per share execution in an Away Market auction at venues other than NYSE American, and 0.30% of total dollar value of the transaction for all other executions.

* * * * *

The proposed changes are not otherwise intended to address any other issues, and the Exchange is not aware of any problems that member organizations would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The term ''Away Market'' is defined in Rule 1.1(ff) to mean any exchange, alternative trading system (''ATS'') or other broker-dealer (1) with which the Exchange maintains an electronic linkage, and (2) that provides instantaneous responses to orders routed from the Exchange.

Section 6(b) of the Act,[5] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[6] 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 its proposed routing fees of $0.0005 per share for NYSE American and $0.0010 per share for venues other than NYSE American for securities with a price under $1.00 are reasonable, equitable and not an unfairly discriminatory allocation of fees because the fees would be applicable to all member organizations in an equivalent manner. Moreover, the proposed fees for routing shares are also reasonable, equitable and not unfairly discriminatory because the proposal would align routing fees with fees for away market auctions. For example, NYSE American charges $0.0005 per share for executions at the open and close for securities below $1.00[7] and BZX charges 0.00100 per share for closing auctions in BZX listed securities.[8] Further, the proposal to charge a fee of 0.30% of total dollar value for transactions for all other executions in securities with a price under $1.00 is reasonable, equitable and not unfairly discriminatory because it is consistent with fees charged on other exchanges.[9]

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,[10] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, the Exchange believes that the proposed change would foster liquidity provision and stability in the marketplace, thereby promoting price discovery and transparency and enhancing order execution opportunities for member organizations. In this regard, the Exchange believes that the transparency and competitiveness of attracting additional executions on an exchange market would encourage 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 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)[11] of the Act and subparagraph (f)(2) of Rule 19b–4[12] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[13] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2018–47 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–NYSE–2018–47. 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

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4) & (5).

[7] *See https://www.nyse.com/publicdocs/nyse/markets/nyse-american/NYSE_America_Equities_Price_List.pdf.*

[8] *See https://markets.cboe.com/us/equities/membership/fee_schedule/bzx/.*

[9] NASDAQ, for example, charges a fee of 0.30% (*i.e.* 30 basis points) of total dollar volume to remove liquidity for shares executed below $1.00. See NASDAQ Fee Schedule at *http://www.nasdaqtrader.com/Trader.aspx?id=PriceListTrading2.*

[10] 15 U.S.C. 78f(b)(8).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(2).

[13] 15 U.S.C. 78s(b)(2)(B).

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–NYSE–2018–47 and should be submitted on or before November 7, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–22539 Filed 10–16–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84410; File No. SR–LCH SA–2018–004]

Self-Regulatory Organizations; LCH SA; Order Approving Proposed Rule Change Relating to Implementation of Electronic Exercise Platform

October 11, 2018.

I. Introduction

On August 24, 2018, Banque Centrale de Compensation, which conducts business under the name LCH SA (''LCH SA''), filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change (the ''Proposed Rule Change'') to amend its (i) CDS Clearing Rule Book (''Rule Book''), (ii) CDS Clearing Supplement (''Supplement''), and (iii) CDS Clearing Procedures (''Procedures'') to incorporate new terms and to make conforming, clarifying, and clean-up changes to implement a new electronic exercise platform (''EEP'') for the exercise of options on index credit default swaps (''CDS Options'') by Clearing Members and their Clients. The proposed rule change was published for comment in the **Federal Register** on September 5, 2018.[3] The Commission has not received any comments on the proposed rule change. For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description of the Proposed Rule Change

The proposed rule change would create an EEP for CDS Options to capture and support decisions to exercise CDS Options by Clearing Members and their Clients.[4] Currently, LCH SA matches a Clearing Member or Client holding the option to either buy or sell protection on the underlying index credit default swap (''CDS'') (''CDS Option buyer''), with a Clearing Member or Client obligated to either buy or sell protection, as applicable, on the underlying index CDS (''CDS Option seller'') (this transaction is a ''matched pair'').[5] The creation of the matched pair allows the CDS Option buyer to exercise or abandon the CDS Option. If the CDS Option buyer exercises the CDS Option, the CDS Option buyer must notify the CDS Option seller manually via email and then inform LCH SA that the exercise notice has been successfully delivered. LCH SA then manually executes the exercise decisions and updates its risk system.

Under the proposed rule change, LCH would still create matched pairs to allow the exercise or abandonment of a CDS Option. The proposed rule change would, however, eliminate the manual notification process between the CDS Option buyer and CDS Option seller by providing, through the EEP, an electronic process for exercising CDS Options. Specifically, a CDS Option buyer would submit an intent through the EEP to either exercise or abandon the CDS Option (''Option Intent''). If validly submitted before the expiration date of the CDS Option, the Option Intent would serve as notice to the CDS Option seller that the CDS Option buyer is going to exercise or abandon the CDS Option. The proposed rule change would require Clearing Members and Clients to use the EEP system to exercise CDS Options. The proposed rule change would also require Clearing Members to delegate to Clients the ability to directly exercise CDS Options related to their cleared transactions (''Client Cleared Transactions''). The EEP would capture CDS Option buyers' exercise decisions in real time and notify the relevant CDS Option sellers in real time. In addition, the EEP would validate and check exercise decisions and facilitate the anonymous exercise of CDS Options.

The proposed rule change would create and implement the EEP through amendments to LCH SA's Rule Book, Supplement, and Procedures. These amendments are summarized below according to how they affect: (i) The exercise of CDS Options directly by Clients; (ii) the operational process for the exercise of CDS Options in the EEP; and (iii) technical specifications of the EEP. The proposed rule change would also make other changes to the Rule Book, Supplement, and Procedures, as discussed below.

A. Exercise of CDS Options Directly by Clients

The proposed rule change would add new provisions to allow for the exercise of CDS Options in the EEP directly by Clients.[6] Specifically, with respect to those CDS Options transactions that are Client Cleared Transactions, new Section 6.4 of the Supplement would require Clearing Members to designate their relevant Clients to act on their behalf via the EEP.[7] The Client so designated would be the Exercise Delegation Beneficiary. Moreover, the proposed rule change would amend the Rule Book to require that Clearing Members delegate to their Clients sufficient power to act on their behalf via the EEP and to ensure that their Clients have created an account in the LCH Portal for use of the EEP (''Client Portal Account'') before delegating such power.[8] Finally, the proposed rule change would amend the Rule Book to require Clients to exercise their delegated power only through their Client Portal Account unless the EEP is or will be unavailable for the exercise of CDS Options (an ''EEP Failure Event'').[9]

The proposed rule change would add similar provisions to Appendix VIII of the Supplement. Appendix VIII provides mandatory provisions that are incorporated into transactions between a Clearing Member and its Client. Changes to Appendix VIII are necessary to incorporate the conditions described above directly into the terms of the transaction between a Clearing Member and its Client. Specifically, the proposed rule change would add new Section 5, which would provide that the Clearing Member and its Client agree that the Clearing Member will designate

[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 34–83983 (Aug. 29, 2018), 83 FR 45155 (Sept. 5, 2018) (SR–LCH SA–2018–004) (''Notice'').

[4] Capitalized terms used herein but not otherwise defined have the meaning set forth in the Rule Book, Supplement, and Procedures, which are available at *https://www.lch.com/resources/rules-and-regulations/sa-rulebooks.*

[5] For more information regarding the operation of CDS Options, *see* Exchange Act Release No. 34–82109 (Nov. 17, 2017), 82 FR 55905 (Nov. 24, 2017) (SR–LCH SA 2017–006; SR–LCH SA–2017–007).

[6] The proposed rule change would also apply these provisions to FCM Clearing Members who clear credit-default swaps and CDS Options for their Clients. Notice, 83 FR at 45156.

[7] Notice, 83 FR at 45158.

[8] Notice, 83 FR at 45156.

[9] *Id.*

its Client as its Exercise Delegation Beneficiary with respect to Client Cleared Transactions.[10] Moreover, new Section 5 would specify the conditions upon which an Option Intent submitted by an Exercise Delegation Beneficiary with respect to a Client Cleared Transaction will be deemed a valid notice to exercise or abandon a CDS Option.[11] Specifically, such an Option Intent will be deemed valid if (i) the Client submits the Option Intent through its Client Portal Account; (ii) the Option Intent is submitted prior to 4.00 p.m. (London time) on the expiration date of the CDS Option; and (iii) LCH SA completes the steps necessary to make the intent available for viewing in the EEP, including validation of the EEP Controls (these controls are described further below in subsection C as part of the technical specifications of the EEP).[12]

The proposed rule change would also limit LCH SA's liability associated with Clients using the EEP to exercise their CDS Options. The proposed rule change would amend the Rule Book to eliminate LCH SA's liability for (i) any damage caused to a Clearing Member by its Client exercising or not exercising a CDS Option in the EEP and (ii) any improper use or disclosure by a third party, including a Client, of information made available at the request of a Clearing Member.[13] The proposed rule change would add a new Section 13(b) to the Supplement to eliminate LCH SA's liability to a Clearing Member for any cost or expense arising out of any failure of an Exercise Delegation Beneficiary to perform its obligations in relation with a delegation or in connection with the exercise or abandonment of a CDS Option.[14] Additionally, the proposed rule change would amend Section 13(d), which currently provides that LCH SA will have no responsibility to verify the contents of any notice received by it from any Clearing Member under the terms of any Cleared Transaction.[15] The proposed rule change would amend Section 13(d) to clarify that this limitation on responsibility also applies to any notice received from an Exercise Delegation Beneficiary of a Clearing Member.

B. Operational Process for the Exercise of CDS Options in the EEP

The proposed rule change would make a number of amendments to the Rule Book and Supplement to further specify the operational process for the exercise of CDS Options in the EEP.

First, the proposed rule change would add defined terms to the Rule Book and Supplement relevant to the creation and implementation of the EEP.[16] Moreover, the proposed rule change would amend existing defined terms both to account for exercise of CDS Options through the EEP and to correct typographical errors.[17]

Second, the proposed rule change would make a number of modifications and additions to Section 6 to provide for the operation of the new EEP. The proposed rule change would facilitate the anonymous exercise of CDS Options by removing the requirement that LCH SA notify the CDS Option buyer and CDS Option seller of their respective identifies.[18] Instead, LCH SA would keep the identities and contact information of the CDS Option buyer and CDS Option seller in a protected report (the ''Protected Exercise Matched Pair Report''), and it would provide access to this report only during an EEP Failure Event, as discussed below.[19]

The proposed rule change would also describe the circumstances in which LCH SA would consider the exercise of a CDS Option via the EEP to be valid in new Section 6.3. Specifically, the proposed rule change would provide that an Option Intent is a valid notice to exercise or abandon a CDS Option if the CDS Option buyer submits the Option Intent prior to 4.00 p.m. (London time) and LCH SA has completed those steps necessary to make such Option Intent available for viewing in the EEP, including validation of the EEP Controls (discussed below).[20]

The proposed rule change would also provide procedures for exercise of CDS Options during an EEP Failure Event.[21] Specifically, new Section 6.5 would require LCH SA to notify Clearing Members and their Exercise Delegation Beneficiaries of the EEP Failure Event and the subsequent resolution of the event.[22] Following the occurrence of the EEP Failure Event, Clearing Members (or their Exercise Delegation Beneficiaries, as applicable) would be authorized to access the information contained in the Protected Exercise Matched Pair Report regarding the identity and contact information of the other Clearing Member (or Exercise Delegation Beneficiary) within the matched pair.[23] During an EEP Failure Event, exercise or abandonment of CDS Options would fall back to the existing manual delivery process using the contact information from the Protected Exercise Matched Pair Report. For an exercise or abandonment to be effective, a Clearing Member (or its Exercise Delegation Beneficiary) would be required to notify LCH SA of such exercise of abandonment by no later than 5.00 p.m. (Central European Time) on the expiration date of the CDS Option.[24]

The proposed rule change would also address the circumstances under which a CDS Option transaction will be terminated taking into account implementation of the EEP. Specifically, the proposed rule change would terminate a CDS Option where the CDS Option buyer elects to abandon the CDS Option or fails to submit an Option Intent by the expiration date of the CDS Option.[25] Moreover, the proposed rule change would allow LCH SA to terminate a CDS Option if the CDS Option buyer does not submit an Option Intent by the expiration date of the CDS Option or if there is an EEP Failure Event and LCH SA does not receive a notice of exercise or abandonment by 5.00 p.m. (Central European Time) on the expiration date.[26]

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[10] Notice, 83 FR at 45161.

[11] *Id.*

[12] Notice, 83 FR at 45161. The proposed rule change would define the term ''EEP Controls'' as the controls that LCH SA performs immediately following the submission of an Option Intent. These controls are described in Section 5 of the Procedures. If an Option Intent does not pass these controls it is not made available for viewing in the EEP by the Option Seller, and thus will not be deemed a valid notice to exercise or abandon a CDS Option.

[13] Notice, 83 FR at 45156.

[14] Notice, 83 FR at 45160.

[15] Notice, 83 FR at 45160.

[16] For an explanation of the definition of each of these terms, *see* Notice, 83 FR at 45156–45157.

[17] Notice, 83 FR at 45156–45157.

[18] Notice, 83 FR at 45157.

[19] The proposed rule change would add a new Section 5.8 to Appendix VIII of the Supplement to require Clients to consent to the disclosure of their address, fax number, telephone number, contact email address (and any other applicable notice details) by their Clearing Members to LCH SA and by LCH SA in any Protected Exercise Matched Pair Report. Notice, 83 FR at 45162.

[20] Notice, 83 FR at 45157–45158.

[21] The proposed rule change would also amend Appendix VIII of the Supplement, regarding mandatory terms that are incorporated into transactions between a Clearing Member and its Client, to add provisions that mirror these procedures.

[22] Notice, 83 FR at 45158.

[23] Notice, 83 FR at 45158.

[24] *Id.*

[25] *Id.*

[26] If there is an EEP Failure Event and LCH SA does not receive a notice of exercise or abandonment by 5.00 p.m. (Central European Time) on the expiration date, the proposed rule change would provide that LCH may, in its sole discretion, give effect to the terms of the notice if LCH determines that the notice was in fact delivered and would have been effective. If LCH SA determines that it is not possible to give effect to the terms of such notice, then the relevant Clearing Members in a matched pair (or their Exercise Delegation Beneficiaries, as applicable) would have rights against each other for settlement payment as though parties to a bilateral credit default swap transaction

The proposed rule change would address situations where communications failures at Clearing Members and their Clients prohibit access to the EEP.[27] Specifically, new Section 6.10 would provide that if a Clearing Member or its Exercise Delegation Beneficiary experiences a significant communications or information technology failure resulting in it being impossible or impracticable to use EEP (a ''Clearing Member Communications Failure Event''), such Clearing Member or its Exercise Delegation Beneficiary shall deliver notices to, and receive notices from, LCH SA using the existing manual exercise process.[28] New Section 6.10 would further specify that upon receipt of such notice, LCH SA will submit the notice to the EEP system for processing by submitting an Option Intent in respect of such notice. New Section 6.10 would further specify the conditions in which such a notice would be deemed valid, including submission of the Option Intent prior to 4.00 p.m. (London time) and LCH SA has completed those steps necessary to make such Option Intent available for viewing in the EEP, including validation of the EEP Controls (discussed below).[29]

New Section 6.10 would further require a Clearing Member or Exercise Delegation Beneficiary affected by a Clearing Member Communications Failure Event to notify LCH SA of the occurrence of the communications failure event using the form notice set out in the Appendix of the Supplement.[30] Similarly, section 6.10 would require an affected Clearing Member or Exercise Delegation Beneficiary to notify LCH SA as soon as reasonably practicable when no longer subject to a communications failure event, in which case the requirement to use the EEP would resume.[31]

Finally, new Section 6.10(e) would require a Clearing Member or Exercise Delegation Beneficiary subject to a Clearing Member Communications Failure Event to use reasonable efforts to (i) mitigate the operational impact on other Clearing Members and LCH SA of any such event; (ii) cure such event as soon as reasonably practicable; and (iii) ensure that the circumstances which caused such event do not recur.[32]

Third, the proposed rule change would also make various changes to Section 8 of the Supplement regarding delivery of notices. The proposed rule change would first amend Section 8.1(a) to make clear that Section 8.1(a) is subject to new Section 6.3.[33] Section 8.1(a) provides general conditions for the effectiveness of notices delivered in respect of cleared transactions, and Section 6.3, as discussed above, provides specific conditions for the effectiveness of notices delivered via the EEP. The proposed rule change would next amend Section 8.1(b) to implement certain conforming changes regarding notices from or to LCH SA in the EEP, including with respect to the occurrence of an EEP Failure Event.[34] Additionally, the proposed rule change would amend Section 8.1(c) to provide that notices shall be given to the name and address provided in the Protected Exercise Matched Pair Report.[35]

The proposed rule change would also renumber Section 8.2 as new Section 8.3. The proposed rule change would then delete the existing Section 8.3 as well as the existing Section 8.4.[36] Both of these sections would no longer be applicable after the implementation of EEP. The proposed rule change would renumber Section 8.5 as new Section 8.2 and make certain conforming changes to account for the delivery of the Protected Exercise Matched Pair Report.[37] The proposed rule change would also describe the procedures to be used if LCH SA does not provide the Protected Exercise Matched Pair Report. In such a case, clearing members may deliver notices to exercise or abandon CDS Options directly to LCH SA and *vice versa*.[38]

Fourth, the proposed rule change would add a new Appendix VI to serve as the form to be used by a Clearing Member or Client to notify LCH SA that it is subject to a Clearing Member Communications Failure Event and a new Appendix VII to serve as the form to notify LCH SA that it is no longer subject to such an event.[39]

C. Technical Specifications of the EEP

The technical specifications of the EEP would be set out in amendments to Section 5 of the Procedures. Specifically, the proposed rule change would add a definition of ''LCH Portal'' to Section 5.3(f). ''LCH Portal'' would be defined as a single sign-on solution for various LCH SA applications to which Clearing Members may have access over secured internet.[40] The proposed rule change would revise Section 5.16 to add a new paragraph entitling a Clearing Member to request that all or part of the reports provided under Section 5.16 be made available on the Client Portal Account.[41]

The proposed rule change would also amend Section 5.16(a)(i)(J) to replace all references to ''Cleared Transaction Exercise Report'' with ''Protected Exercise Matched Pairs Report'' to reflect the new reporting structure in EEP.[42] The proposed rule change would further specify the timing for ICEEU's preparation of the Protected Exercise Matched Pairs Report and that such report will only be made accessible following the occurrence of an EEP Failure Event.[43]

The proposed rule change would delete the current Section 5.16(c)(ii), regarding reports of open interest in CDS Options, because such a report would no longer be applicable after the proposed rule change.[44] The proposed rule change would renumber current Section 5.16(c)(iii) as a new Section 5.16(c)(ii) and current Section 5.16(c)(iv) as a new Section 5.16(c)(iii).

The proposed rule change would add a new Section 5.19 to require Clearing Members to notify LCH SA when they delegate power to exercise or abandon CDS Options to their Clients by sending a completed and signed notification form to LCH SA via email.[45]

The proposed rule change would add a new Section 5.19.2 to describe the EEP Controls that LCH SA will use to determine that an Option Intent is validly submitted. Specifically, upon a submission of an Option Intent in the EEP, LCH SA will carry out logicality controls to identify an intent which could have been submitted in the EEP in error.[46] The controls will be based on the relative position or the price of the exercise compared to reference prices provided in the EEP.[47] LCH SA will not register in the EEP any intent which does not pass such controls, and LCH SA will inform the applicable Clearing Member or Exercise Delegation Beneficiary. The Clearing Member or

on the terms of the relevant underlying index. Notice, 83 FR at 45158–45159.

[27] The proposed rule change would also amend Appendix VIII of the Supplement, regarding mandatory terms that are incorporated into transactions between a Clearing Member and its Client, to add provisions that mirror these procedures. Notice, 83 FR at 45161.

[28] Notice, 83 FR at 45159.

[29] *Id.*

[30] Notice, 83 FR at 45159.

[31] *Id.*

[32] Notice, 83 FR at 45159.

[33] Notice, 83 FR at 45160.

[34] *Id.*

[35] Notice, 83 FR at 45160.

[36] *Id.*

[37] *Id.*

[38] *Id.*

[39] *Id.*

[40] Notice, 83 FR at 45162.

[41] *Id.*

[42] *Id.*

[43] *Id.*

[44] *Id.*

[45] Notice, 83 FR at 45162.

[46] *Id.*

[47] *Id.*

Exercise Delegation Beneficiary may then choose to re-submit such intent or make a ''Force Submission.'' [48] A Force Submission occurs when the Clearing Member or its Exercise Delegation Beneficiary elects to bypass the controls by specifying ''Confirm'' or ''Force'' when submitting the Option Intent.[49] LCH SA will not carry out controls on such an Option Intent.[50]

New Section 5.19.2 would further specify that, before registering any Option Intent, LCH SA will ensure that such intent (i) is submitted by a user who (a) is connected with the proper user ID and password and (b) based on such ID and password, is duly authorized to exercise or abandon, as applicable, the relevant CDS Options; (ii) has not already been submitted in the EEP (other than as a partial Exercise); and (iii) passes the logicality controls or is a Force Submission.[51]

D. Other Changes

The proposed rule change would make a number of other changes related to CDS Options. First, the proposed rule change would make a number of amendments regarding restructuring of CDS Options following a credit event in respect of an entity referenced by the index underlying the CDS Option.[52] The proposed rule change would maintain the existing manual notification process for transactions in restructured CDS Options. To that end, the proposed rule change would delete a number of provisions from Section 8 of the Supplement, which currently contains the manual notification process, and reinstate them in Section 5, which sets out the procedures for restructured CDS Options.[53] Similarly, the proposed rule change would make changes to Section 7 of the Supplement regarding settlement of restructured CDS Options. The proposed rule change would also amend Section 7.2 of the Supplement to incorporate the term ''Auction Final Price Determination Date'' in order to correct an inaccurate reference in the current version of the Supplement.[54] Additionally, the proposed rule change would amend Section 7.3(b)(ii) of the Supplement to clarify that a valid Credit Event Notice must be delivered or deemed to be delivered in respect for subsections (x) and (y) of Section 7.3(b)(ii) to apply.[55] Finally, the proposed rule change would correct typographical errors in Sections 7.3 and 7.4(a) of the Supplement.[56]

Second, the proposed rule change would update Section 9 of the Supplement, regarding the creation of matched pairs. The proposed rule change would delete Sections 9.1(c) and (d) to remove the requirement that, to the extent possible, each matched pair of a CDS Option have an amount which is an integral multiple of Euro 1,000,000 subject to a maximum of Euro 100,000,000.[57] Although this change is unrelated to the implementation of EEP, LCH SA does not believe this condition is necessary any longer, so the proposed rule change would update the Supplement accordingly.

Finally, the proposed rule change would make typographical corrections, update conforming references, and revise numbering throughout the Rule Book, Supplement, and Procedures, as necessary.

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization.[58] For the reasons given below, the Commission finds that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act [59] and Rules 17Ad–22(e)(1), (e)(17)(i)–(ii), and (e)(18) thereunder.[60]

A. Consistency With Section 17A(b)(3)(F) of the Act

Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of LCH SA be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, as well as to assure the safeguarding of securities and funds which are in the custody or control of LCH SA or for which it is responsible, and, in general, to protect investors and the public interest.[61]

The Commission believes that by eliminating the existing manual notification process and replacing it with an electronic one, the EEP, in general, would promote the efficient and effective exercise of CDS Options. The EEP would eliminate the possible delays, errors, and miscommunications that can result from manual notification via email. In doing so, the Commission believes the EEP would promote the prompt and accurate clearance and settlement of CDS Options transactions by providing a means for the efficient exercise of CDS Options. Moreover, in reducing the likelihood of delays, errors, and miscommunications as compared to the existing manual notification process, the Commission believes that the EEP would reduce the likelihood of disputes over the exercise of CDS Options and the possibility that LCH SA may not accurately capture a CDS Option buyer's intent to abandon or exercise a CDS Option. In this regard, the Commission believes the EEP would help assure the safeguarding of securities and funds relating to CDS Options which are in the custody or control of LCH SA or for which it is responsible by helping LCH SA to avoid disruptions to its operations which could, in turn, impede access to securities and funds required in connection with the exercise or abandonment of CDS Options. For both of these reasons, the Commission also believes that the EEP, in general, would protect investors and the public interest. Thus, the Commission believes that the EEP, in general, would be consistent with Section 17A(b)(3)(F) of the Act.[62]

The Commission further believes that the specific aspects of the proposed rule change that would facilitate the operation of the EEP would also be consistent with Section 17A(b)(3)(F).[63] Specifically, the Commission believes that in (i) adding new defined terms (and modifying existing defined terms accordingly); (ii) defining the circumstances in which LCH SA would consider the exercise of a CDS Option via the EEP to be valid; (iii) providing the circumstances in which LCH SA would terminate a CDS Option; and (iv) establishing the enforceability of notices delivered via the EEP, the proposed rule change would provide the legal basis for operation of the EEP. Similarly, by providing the technical specifications of the EEP (including defining the applications and reports associated with the EEP) and establishing the controls LCH SA would use to determine if an Option Intent was submitted correctly and by an authorized user, the Commission believes the proposed rule change would provide the technological basis for operation of the EEP. The Commission believes that these aspects of the proposed rule change would

[48] *Id.*
[49] *Id.*
[50] *Id.*
[51] Notice, 83 FR at 45162.
[52] Notice, 83 FR at 45157.
[53] *Id.*
[54] Notice, 83 FR at 45160.
[55] Notice, 83 FR at 45160.
[56] *Id.*
[57] *Id.*
[58] 15 U.S.C. 78s(b)(2)(C).
[59] 15 U.S.C. 78q–1(b)(3)(F).
[60] 17 CFR 240.17Ad–22(e)(1), (e)(17)(i)–(ii), and (e)(18).
[61] 15 U.S.C. 78q–1(b)(3)(F).
[62] 15 U.S.C. 78q–1(b)(3)(F).
[63] 15 U.S.C. 78q–1(b)(3)(F).

thereby promote the use and operation of the EEP for executing CDS Options transactions and therefore would promote the prompt and accurate clearance and settlement of such transactions, consistent with Section 17A(b)(3)(F).[64]

Similarly, the Commission believes that the provisions of the proposed rule change facilitating the exercise of CDS Options in the EEP directly by Clients would promote the prompt and accurate clearance and settlement of CDS Options. The Commission believes that if Clients were not able to exercise their CDS Options directly in the EEP they would have to rely on Clearing Members to do so on their behalf, which would require communicating their intentions to Clearing Members accurately and with sufficient time to allow Clearing Members to act before expiration of the CDS Options. In contrast, allowing Clients to exercise their CDS Options directly in the EEP should be more efficient than, and avoid possible delays and miscommunications associated with, Clearing Members exercising CDS Options on behalf of Clients. As a result, the Commission believes the proposed rule change would promote the prompt and accurate clearance and settlement of CDS Option transactions by providing Clients a more efficient means for the exercise of their CDS Options.

Finally, the Commission believes that the other changes discussed above are consistent with Section 17A(b)(3)(F) of the Act.[65] Specifically, by consolidating provisions regarding delivery of notices with provisions regarding restructuring of CDS Options and making other updates regarding restructuring of CDS Options, the Commission believes the proposed rule change would allow the existing notification process for restructuring of CDS Options to continue after implementation of the EEP. This would allow LCH SA to continue clearing and settling restructured CDS Options outside of the EEP, thereby helping to promote the prompt and accurate clearance and settlement of restructured CDS Options. Moreover, the Commission believes that updating Section 9 of the Supplement to remove the inapplicable provisions regarding the creation of matched pairs would help ensure that LCH SA continues to create matched pairs consistently, which is necessary to pair CDS Option buyers and CDS Option sellers for purposes of executing or abandoning CDS Options. The Commission therefore believes that these aspects of the proposed rule change would promote the prompt and accurate clearance and settlement of CDS Option transactions.

Therefore, for all of the above reasons the Commission finds that the proposed rule change would promote the prompt and accurate clearance and settlement of CDS Options transactions, assure the safeguarding of securities and funds in LCH SA's custody and control, and, in general, protect investors and the public interest, consistent with the Section 17A(b)(3)(F) of the Act.[66]

B. Consistency With Rule 17Ad–22(e)(1) of the Act

Rule 17Ad–22(e)(1) requires that LCH SA establish, implement, maintain and enforce written policies and procedures reasonably designed to provide for a well-founded, clear, transparent, and enforceable legal basis for each aspect of its activities in all relevant jurisdictions.[67]

As discussed above, the Commission believes that the proposed rule change would provide the legal basis for operation of the EEP by (i) adding new defined terms (and modifying existing defined terms accordingly); (ii) establishing the circumstances in which LCH SA would consider the exercise of a CDS Option via the EEP to be valid; and (iii) defining the circumstances in which LCH SA would terminate a CDS Option. Moreover, the Commission believes the proposed rule change, in making typographical corrections, updating conforming references, and revising numbering throughout the Rule Book, Supplement, and Procedures, would help ensure the consistency and accuracy of the Rule Book, Supplement, and Procedures after implementation of the EEP, thereby further helping to establish the legal basis for operation of the EEP.

Therefore, for the above reasons the Commission finds that the proposed rule change is consistent with Rule 17Ad–22(e)(1).[68]

C. Consistency With Rules 17Ad–22(e)(17)(i)–(ii) of the Act

Rule 17Ad–22(e)(17)(i)–(ii) requires that LCH SA establish, implement, maintain and enforce written policies and procedures reasonably designed to manage its operational risks by identifying the plausible sources of operational risk, both internal and external, and mitigating their impact through the use of appropriate systems, policies, procedures, and controls and ensuring that systems have a high degree of security, resiliency, operational reliability, and adequate, scalable capacity.[69]

The Commission believes that, in replacing the existing manual notification process, the EEP would reduce LCH SA's operational risks associated with clearing and settling CDS Options. For example, the EEP would check whether an Option Intent was erroneous based on the relative position or the price in the Option Intent compared to reference prices provided in the EEP. Such validity checks are not a feature of the current notification process, and the Commission believes that these checks would reduce the likelihood that an Option Intent is submitted in error or otherwise miscommunicated. This, in turn, would reduce the risk to LCH SA that it does not accurately capture or execute a Clearing Member's or a Client's intent in exercising or abandoning a CDS Option. Moreover, under the EEP, if a CDS Option buyer submits an Option Intent before the exercise deadline and it passes the EEP validation checks, the notice of exercise or abandonment would be deemed legally delivered by LCH SA to the CDS Option seller on a real time basis. The Commission believes that this feature of the EEP would help reduce the possibility that LCH SA could fail to carry out a Clearing Member's or a Client's intent in exercising a CDS Option, further reducing LCH SA's operational risks in clearing and settling CDS Option transactions.

The proposed rule change would establish procedures for the exercise of CDS Options in the case of the EEP not being operational or a Clearing Member or Client being unable to access the EEP due to a Clearing Member Communications Failure Event. In addition, the proposed rule change would require Clearing Members and Clients to (i) mitigate the impact of a Clearing Member Communications Failure Event; (ii) cure such event as soon as reasonably practicable; and (iii) ensure that the circumstances which caused such event do not recur. The Commission believes that these procedures, which would fall back on the existing manual notification process in place of the EEP, would provide a reasonable alternative in circumstances where the EEP is unavailable or inaccessible. The Commission further believes that these procedures, in providing another means to exercise CDS Options, would help mitigate the impact to Clearing Members and Clients from a malfunction of the EEP or a

[64] 15 U.S.C. 78q–1(b)(3)(F).

[65] 15 U.S.C. 78q–1(b)(3)(F).

[66] 15 U.S.C. 78q–1(b)(3)(F).

[67] 17 CFR 240.17Ad–22(e)(1).

[68] 17 CFR 240.17Ad–22(e)(1).

[69] 17 CFR 240.17Ad–22(e)(17)(i), (ii).

communications failure. Thus, the Commission believes that these alternative procedures would help ensure the resiliency and operational reliability of the EEP by providing a means to exercise CDS Options where the EEP is unavailable or inaccessible.

Therefore, for the above reasons the Commission finds that the proposed rule change is consistent with Rules 17Ad–22(e)(17)(i)–(ii).[70]

D. Consistency With Rule 17Ad–22(e)(18)

Rule 17Ad–22(e)(18) requires that LCH SA establish, implement, maintain and enforce written policies and procedures reasonably designed to establish objective, risk-based, and publicly disclosed criteria for participation, which permit fair and open access by direct and, where relevant, indirect participants and other financial market utilities, require participants to have sufficient financial resources and robust operational capacity to meet obligations arising from participation in the clearing agency, and monitor compliance with such participation requirements on an ongoing basis.[71]

The Commission believes that by allowing Clients to exercise CDS Options in the EEP directly, the proposed rule change would establish objective and publicly disclosed criteria for Clients to participate in the EEP. Specifically, the proposed rule change would, as discussed above, require Clearing Members to designate their relevant Clients to act on their behalf via the EEP with respect to those CDS Options transactions that are Client Cleared Transactions. The proposed rule change would also require that Clearing Members delegate to their Clients sufficient power to act on their behalf via the EEP and require Clients to exercise that power through their Client Portal Account on the EEP. Finally, the proposed rule change would add provisions to Appendix VIII of the Supplement to incorporate these conditions directly into the terms of the transaction between a Clearing Member and its Client. The Commission believes that these aspects of the proposed rule change would establish the objective and public criteria that Clients must follow to directly access the EEP and participate in exercising CDS Options at LCH SA. Moreover, the Commission believes these aspects of the proposed rule change would permit fair and open access by Clients by requiring Clearing Members to designate their relevant Clients to act on their behalf in exercising their CDS Options.

Therefore, for the above reasons the Commission finds that the proposed rule change is consistent with Rule 17Ad–22(e)(18).[72]

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act, and in particular, Section 17A(b)(3)(F) of the Act[73] and Rules 17Ad–22(e)(1), (e)(17)(i)–(ii), and (e)(18) thereunder.[74]

It is therefore ordered pursuant to Section 19(b)(2) of the Act that the proposed rule change (SR–LCH SA–2018–004) be, and hereby is, approved.[75]

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[76]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–22540 Filed 10–16–18; 8:45 am]

BILLING CODE 8011–01–P

[70] 17 CFR 240.17Ad–22(e)(17)(i)–(ii).

[71] 17 CFR 240.17Ad–22(e)(18).

[72] 17 CFR 240.17Ad–22(e)(18).

[73] 15 U.S.C. 78q–1(b)(3)(F).

[74] 17 CFR 240.17Ad–22(e)(1), (e)(17)(i)–(ii), (e)(18).

[75] In approving the proposed rule change, the Commission considered the proposal's impacts on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[76] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84412; File No. SR–NYSEAMER–2018–45]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 7.14E, Clearance and Settlement

October 11, 2018.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on September 27, 2018, NYSE American LLC (''Exchange'' or ''NYSE American'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, 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.

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 7.14E, Clearance and Settlement, to remove language that is inconsistent with the Exchange's Price List. 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 Rule 7.14E, Clearance and Settlement, to remove language that was inadvertently included when the rule was first adopted and that is inconsistent with the Exchange's Price List. The Exchange adopted Rule 7.14E as part of a proposed rule change to adopt rules for trading on the Exchange's new trading technology platform.[4] Rule 7.14E was based on similar rules of its affiliate, NYSE Arca, Inc. (''NYSE Arca'') Rule 7.14–E and adopted by the Exchange without any substantive differences.[5]

Paragraph (c) of Rule 7.14E states that ''[e]ach clearing firm must be admitted to the Exchange as an ETP Holder by meeting the qualification requirements set forth in Rule 2—Equities.'' Paragraph (c) of Rule 7.14E also includes language that exempts clearing firms from paying the regular ETP Holder fee where that clearing firm became an ETP Holder for the sole purpose of acting as a clearing firm on the Exchange. This language

[4] *See* Securities Exchange Act Release Nos. 79242 (November 4, 2016), 81 FR 79081 (November 10, 2016) (SR–NYSEMKT–2016–97); 80590 (May 4, 2017), 82 FR 21843 (May 10, 2017) (SR–NYSEMKT–2017–01); *and* 79982 (February 7, 2017), 82 FR 105008 (February 13, 2017) (Notice) and 80577 (May 2, 2017), 82 FR 21446 (May 8, 2017) (SR–NYSEMKT–2017–04).

[5] *Id.*

was inadvertently included when Rule 7.14E was adopted and is inconsistent with the Exchange's Price List, which does not include language exempting clearing only ETP Holders from the fee's application.[6] The Exchange notes that no such exemption exists in the Exchange's rule governing the trading of Exchange-listed securities. Therefore, the Exchange proposes to remove the following phrase from the first sentence of Exchange Rule 7.14E(c): ''provided, however, if the clearing firm has become an ETP Holder for the sole purpose of acting as a clearing firm on the Exchange, such clearing firm need not pay the regular ETP Holder fee''.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Sections 6(b)(5) of the Act,[8] in particular, because it is designed to promote just and equitable principles of trade, remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange believes that the proposed rule change would remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, protect investors and the public interest because it would remove language from Exchange Rule 7.14E(c) that was inadvertently included when the rule was adopted and that is inconsistent with the Exchange's Price List. The proposed rule change would delete language from Rule 7.14E(c) that incorrectly exempts clearing only ETP Holders from the ETP Holder fee and would, therefore, remove an inconsistency between Rule 7.14E and the Exchange's Price List. The Exchange does not currently charge an ETP Holder fee.[9] Further, no ETP Holders currently acts solely as a clearing firm and, therefore, no ETP Holder would be affected by the proposed rule change. The proposed rule change should avoid potential confusion about the applicability of the ETP Holder fee should an ETP Holder seek to act solely as a clearing firm on the Exchange. Lastly, the Exchange notes that no such exemption exists in the Exchange's rule governing the trading of Exchange-listed securities. Therefore, the proposed rule change would allow for the consistent application of the ETP Holder fee among ETP Holders that act solely as clearing firms.

The Exchange also believes that the proposed rule change is consistent with Sections 6(b)(4) of the Act [10] 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 proposed rule change is equitable, reasonable, and not unfairly discriminatory because it would clarify the application of the ETP Holder fee and apply it equally to ETP Holders that act solely as a clearing firm.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[11] 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. The proposed rule change is not designed to have a competitive impact. It is simply intended to amend the Exchange's rules to remove language from Exchange Rule 7.14E(c) that was inadvertently included when the rule was adopted and that is inconsistent with the Exchange's Price List. It is not intended to address any competitive issues or to attract additional order flow the Exchange.

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 [12] and Rule 19b–4(f)(6) thereunder.[13] 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.

A proposed rule change filed under Rule 19b–4(f)(6) [14] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii) [sic],[15] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

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) [16] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEAMER–2018–45 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEAMER–2018–45. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/*

[6] The Exchange does not currently charge ETP Holders a separate ETP Holder fee. *See* the Exchange's Price List on page 4 *available at https://www.nyse.com/publicdocs/nyse/markets/nyse-american/NYSE_America_Equities_Price_List.pdf* (dated July 26, 2018).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] *See supra* note 6.

[10] 15 U.S.C. 78f(b)(4).

[11] 15 U.S.C. 78f(b)(8).

[12] 15 U.S.C. 78s(b)(3)(A)(iii).

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6).

[15] 17 CFR 240.19b–4(f)(6)(iii).

[16] 15 U.S.C. 78s(b)(2)(B).

rules/sro.shtml). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEAMER–2018–45, and should be submitted on or before November 7, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–22532 Filed 10–16–18; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84406; File No. SR–CboeBZX–2018–074]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Introduce Equities Purge Ports To (1) Establish Purge Ports for Equities Trading and Amend the Interpretations and Policies to Rule 11.10, Order Execution, To Reflect the Proposed Purge Ports, and (2) Modify the Fee Schedule Applicable to the Exchange's Equities Platform ("BZX Equities") To Identify and To Set Fees for Purge Ports

October 11, 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 September 28, 2018, Cboe BZX Exchange, Inc. ("Exchange" or "BZX") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to (1) establish Purge Ports for equities trading and amend the Interpretations and Policies to Rule 11.13, Order Execution and Routing, to reflect the proposed Purge Ports, and (2) modify the fee schedule applicable to the Exchange's equities platform ("BZX Equities") to identify and to set fees for Purge Ports.

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 purpose of the proposed rule change is to offer Users[5] an additional tool to manage risk and exercise additional control over their quotations in equity securities (*i.e.,* "Purge Ports"). Specifically, the Exchange proposes to: (1) Establish Purge Ports for equities trading and amend the Interpretations and Policies to Rule 11.13, Order Execution and Routing, to reflect the proposed Purge Ports, and (2) modify the fee schedule applicable to BZX Equities to identify and to set fees for Purge Ports.

Purge Ports are already available on the Exchange's affiliated options markets—*i.e.,* the Exchange's options trading platform ("BZX Options"), the options trading platform of Cboe EDGX Exchange, Inc. ("EDGX Options"), and Cboe C2 Exchange, Inc. ("C2").[6] Based on the successful experience with Purge Ports for options, and in response to demand for similar functionality for equities trading, the Exchange has determined to offer Purge Ports on BZX Equities. The Exchange believes that the proposed Purge Port functionality will provide an effective tool for Users to manage their risk associated with equities trading.

Background

A logical port represents a port established by the Exchange within the Exchange's system for trading and billing purposes. Each logical port established is specific to a Member or non-Member and grants that Member or non-Member the ability to accomplish a specific function, such as order entry, order cancellation, or data receipt. In addition, logical ports enable Users to access information such as execution reports, execution report messages, auction notifications, and administrative data through a single feed.

Purge Ports

The Exchange now proposes to amend the Interpretations and Policies to Rule 11.13, Order Execution and Routing, to identify Purge Ports, a new type of logical port that would enable Users to cancel all open orders, or a subset thereof, across multiple logical ports through a single cancel message. The Exchange also proposes to amend the BZX Equities fee schedule to adopt fees for Purge Ports.

The proposed ports are designed to assist Users, including Market Makers,[7] in the management of, and risk control over, their quotes, particularly if the firm is quoting a large number of

[17] 17 CFR 200.30–3(a)(12).

[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).

[5] A "User" is any Member or Sponsored Participant who is authorized to obtain access to the System pursuant to Rule 11.3. *See* Rule 1.5(cc).

[6] *See* Securities Exchange Act Release Nos. 79956 (February 3, 2017), 82 FR 10102 (February 9, 2017) (SR–BatsBZX–2017–05); 79957 (February 3, 2017), 82 FR 10070 (February 9, 2017) (SR–BatsEDGX–2017–07); 83201 (May 9, 2018), 83 FR 22546 (May 15, 2018) (SR–C2–2018–006).

[7] A "Market Maker" is a Member that acts as a Market Maker pursuant to Chapter XI. *See* Rule 1.5(l).

securities. For example, if a Market Maker detects market indications that may influence the direction or bias of his or her quotes, the Market Maker may use the proposed Purge Port(s) to reduce uncertainty and to manage risk by purging all quotes in a number of securities. This would allow the firm to seamlessly avoid unintended executions, while continuing to evaluate the direction of the market. While Purge Ports will be available to all Users, the Exchange anticipates they will be used primarily by Market Makers or firms that conduct similar business activity and are therefore exposed to a large amount of risk across a number securities.

Users may currently cancel orders through their existing logical ports. In addition, the Exchange offers risk functionality pursuant to Interpretation and Policies .01 to Rule 11.13 that permits Users to block new orders from being submitted, to cancel all open orders, or to both block new orders and cancel all open orders. In addition to the current risk functionality, which is being retained, the Exchange now proposes to expand the ability of Users to cancel orders through the proposed Purge Ports, which would enable them to cancel all open orders, or a subset thereof, across multiple logical ports through a single cancel message. The mass cancel request may be limited to a subset of orders by identifying the range of orders to be purged. Users may also request via a Purge Port that the Exchange block all or a subset of new orders submitted, and the block will remain in effect until the User requests that the Exchange remove the block.

The Exchange proposes to amend the Interpretations and Policies to Rule 11.13, Order Execution and Routing, to reflect the proposed Purge Port functionality. As described above, Interpretation and Policies .01 to Rule 11.13 currently states that the Exchange offers risk functionality that permits Users to block new orders submitted, to cancel all open orders, or to both block new orders and cancel all open orders. The Exchange proposes to move this language to Interpretations and Policies .02(a) to Rule 11.13,[8] and add additional language to describe the flexibility provided using the proposed Purge Ports. Specifically, as proposed, Interpretations and Policies .02(b) to Rule 11.13 will state that a ''Purge Port'' is a dedicated port that permits a User to simultaneously cancel all or a subset of its orders in one or more symbols across multiple logical ports by requesting the Exchange to effect such cancellation. The proposed rule will also provide that a User initiating such a request may also request that the Exchange block all or a subset of its new inbound orders in one or more symbols across multiple logical ports. The block will remain in effect until the User requests the Exchange remove the block.

In addition, the Exchange proposes to modify the Logical Port Fees section of the BZX Equities fee schedule to adopt a fee for Purge Ports of $650 per port/per month, which would compensate the Exchange for the investment that it has made in making Purge Ports available to firms that believe they would benefit from a dedicated purge mechanism. Only firms that request Purge Ports would be subject to the proposed fees, and other firms can continue to operate in exactly the same manner as they do today without dedicated Purge Ports.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[9] Specifically, the proposed rule change is consistent with Sections 6(b)(4) and 6(b)(5) of the Act,[10] because it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities, and is designed 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 would promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market because offering Users, including Market Makers, designated Purge Ports would enhance their ability to manage quotes, quote traffic, and their quoting obligations,[11] which would, in turn, improve their risk controls to the benefit of all market participants. The Exchange believes that the Purge Ports would foster cooperation and coordination with persons engaged in facilitating transactions in securities because designating Purge Ports for purge messages (including blocking subsequent order entry) may encourage better use of such dedicated ports. This may, concurrent with the logical ports that carry quote and other information necessary for market making activities, enable more efficient, as well as fair and reasonable, use of Market Makers' resources. Although dedicated Purge Ports are a new innovation for equities exchanges, similar connectivity and functionality is offered by options exchanges, including the Exchange's own affiliated options exchanges.[12] The Exchange believes that proper risk management, including the ability to efficiently cancel multiple orders at once, is similarly important to firms that trade in the equities market, including Market Makers that have heightened quoting obligations that are not applicable to other market participants.

The proposed rule change will not relieve Market Makers of their continuous quoting obligations under Rule 11.8(d) or firm quote obligations under Regulation NMS Rule 602.[13] Specifically, any interest that is executable against a User's or Market Maker's quotes and orders that is received by the Exchange prior to the time of the removal of quotes request will automatically execute at that price, up to the quote's size. Market Makers that purge their quotes will not be relieved of the obligation to provide continuous two-sided quotes on a daily basis, nor will it prohibit the Exchange from taking disciplinary action against a Market Maker for failing to meet their continuous quoting obligation each trading day.

Dedicated Purge Ports, which were originally introduced for options trading, are a new feature in the equities market, and the Exchange is the first equities exchange to offer this functionality to Users. The Exchange has incurred additional infrastructure and technology costs in offering the proposed Purge Ports, including costs associated with the purchase of new hardware to support these dedicated ports, and software development, testing, and certification work associated with the risk management functionality made available through such ports. The Exchange also has continuing costs associated with maintenance and monitoring of the proposed ports. The Exchange believes

[8] The Exchange also proposes to make a non-substantive change that deletes the introductory clause of this sentence.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(4) and (5).

[11] *See* Rule 11.8(d).

[12] *See* supra note 7. *See also e.g.* Nasdaq ISE, LLC, Schedule of Fees, V. Connectivity Fees, C. Ports and Other Services, SQF Purge Port Fee.

[13] 17 CFR 242.602.

that its proposed fees should facilitate the ability of the Exchange to recoup some costs associated with Purge Ports as well as provide, maintain, and improve Purge Ports.[14] The proposed fees therefore directly support the introduction of new and innovative risk management features to the market.

The Exchange believes the proposed fee for Purge Ports is equitable and reasonable. The Exchange currently charges $550 per port/per month for logical ports.[15] The Exchange believes it is equitable and reasonable to charge $650 per month for the proposed Purge Ports as such ports were specially developed to allow for the sending of a single message to cancel multiple orders, thereby assisting firms in effectively managing risk. In addition, Purge Port requests may cancel orders submitted over numerous ports and contain added functionality to purge only a subset of these orders. Effective risk management is important both for individual market participants that choose to utilize risk features provided by the Exchange, as well as for the market in general. As a result, the Exchange believes that it is appropriate to charge fees that compensate for the development of such functionality as doing so aids in the maintenance of a fair and orderly market.

The Exchange also believes that offering such functionality at the Exchange level promotes robust risk management across the industry, and thereby facilitates investor protection. Some market participants, and, in particular, the larger firms could build similar risk functionality on their trading systems that permit the flexible cancellation of orders entered on the Exchange. Offering Exchange level protections ensures that such functionality is widely available to all firms, including smaller firms that may otherwise not be willing to incur the costs and development work necessary to support their own customized mass cancel functionality.

Although the Exchange is the first exchange to develop and offer dedicated Purge Ports for equities trading, the proposed rate is lower than that charged by options exchanges for similar functionality, including the fees charged by the Exchange's affiliated options exchanges for Options Purge Ports, which are billed at a rate of $750 per month, and fees charged by unaffiliated options exchanges, such as ISE, which charges a fee of $1,100 per month for SQF Purge Ports. The Exchange operates in a highly competitive market in which exchanges offer connectivity and related services as a means to facilitate the trading activities of Members and other participants. As the proposed Purge Ports provide voluntary risk management functionality, excessive fees would simply serve to reduce demand for this optional product.

The Exchange also believes that the proposed amendments to its fee schedule are not unfairly discriminatory because they will apply uniformly to all Members that choose to use dedicated Purge Ports. The proposed Purge Ports are completely voluntary and, as they relate solely to optional risk management functionality, no Member is required or under any regulatory obligation to utilize them. The Exchange believes that adopting separate fees for these ports ensures that the associated costs are borne exclusively by Members that determine to use them based on their business needs, including Market Makers or similarly situated market participants that enter orders simultaneously in a number of securities. All Members that voluntarily select this service option will be charged the same amount for the same services. All Members have the option to select any connectivity option, and there is no differentiation among Members with regard to the fees charged for the services offered by the Exchange.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange believes the proposed rule change will enhance competition because it will enable the Exchange to innovate and offer similar equities Purge Port functionality to that offered on options markets today, at a competitive price.[16] The proposed Purge Ports are completely voluntary and will be made available to all Members on an equal basis. While the Exchange believes that the proposed Purge Ports provide a valuable service, Members can choose to purchase, or not purchase, these ports based on their business needs. No Member is required or under any regulatory obligation to utilize Purge Ports. Furthermore, fees for Purge Ports, and connectivity in general, are constrained by the robust competition for order flow among exchanges and non-exchange markets. Members may opt to disfavor the Exchange's pricing if they believe that alternatives offer them better value. As a result, excessive fees for connectivity, including Purge Port fees, would serve to impair the Exchange's ability to compete for order flow rather than burdening competition. Accordingly, the Exchange believes that the proposed rule change is designed to offer appropriate risk management functionality to firms that trade on the Exchange without imposing an unnecessary or inappropriate burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No comments were solicited or received 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)(iii) of the Act[17] and subparagraph (f)(6) of Rule 19b–4 thereunder.[18]

A proposed rule change filed under Rule 19b–4(f)(6)[19] normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b–4(f)(6)(iii)[20] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become effective and operative immediately upon filing. The Exchange noted that its affiliated options exchanges provide Purge Ports and that they have been successful for options. The Exchange noted that there is a demand for Purge Ports for equities

[14] Purge Ports will be fee liable on a monthly basis (and not only when such ports are active), which will help the Exchange to recoup the cost of these ports.

[15] The fee for Multicast PITCH Spin Server ports provides access to a set of primary ports (A or C feed) and the fee for Multicast PITCH GRP Ports provides access to a primary port (A or C feed).

[16] *See* supra note 13.

[17] 15 U.S.C. 78s(b)(3)(A)(iii).

[18] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[19] 17 CFR 240.19b–4(f)(6).

[20] 17 CFR 240.19b–4(f)(6)(iii).

and that it believes that the Purge Ports will provide an effective risk management tool for Users trading equities. The Commission believes that Purge Ports may be a helpful tool for managing the risk associated with trading equities, and notes that this can be important both for individual market participants and the market in general. Accordingly, the Commission believes that permitting this feature to be operative upon filing is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.[21]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeBZX–2018–074 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–2018–074. 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–2018–074 and should be submitted on or before November 7, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–22535 Filed 10–16–18; 8:45 am]

BILLING CODE 8011–01–P

[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] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84401; File No. SR–CboeBZX–2018–075]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Fees on Cboe BZX Exchange, Inc.

October 11, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 1, 2018, Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to add certain fees related to the listing and trading of options that overlie the Russell 2000 Index (''RUT options'').

The text of the proposed rule change is available at the Exchange's website at *www.markets.cboe.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

On September 27, 2018, the Exchange's equity options platform (''BZX Options'') received approval from the Commission to list and trade RUT options.[5] The Exchange intends to begin listing RUT options for trading on October 1, 2018. Accordingly, the Exchange proposes to amend its Fees Schedule for BZX Options to add: (i) An Index License Surcharge Fee to all Non-Customer transactions in RUT options; (ii) Fee codes for RUT options that add or remove liquidity on the Exchange; and (iii) Fee codes for RUT options that are routed away from the Exchange, effective October 1, 2018.

[5] *See* Securities Exchange Act Release No. 84298 (September 27, 2018) (SR–CboeBZX–2018–058).

RUT Surcharge Fee

The Exchange proposes to add an Index License Surcharge Fee of $0.45 per contract to all Non-Customer transactions (*i.e.,* Market Maker and Away Market Maker, Firm, Broker Dealer, Joint Back Office, and Professional transactions) in RUT options. The proposed RUT Surcharge Fee will be assessed on all non-Customer orders that contain one of the proposed Fee codes described below (BM, BN, BO, GM, GN, and GO).

Fee Codes for RUT Options—Add or Remove Liquidity

Proposed Fee code BC will be appended to all Customer orders in RUT options that add or remove liquidity, and result in a standard fee of $0.15 per contract. Proposed Fee code BM will be appended to all Market Maker orders in RUT options that add or remove liquidity, and result in a standard fee of $0.35 per contract. Proposed Fee code BN will be appended to all Non-Customer and Non-Market Maker orders in RUT options that add or remove liquidity, and result in a standard fee of $0.55 per contract. Proposed Fee code BO will be appended to all orders in RUT options that trade on the open, and will be free. Proposed Footnote 14 attaches to each of the proposed non-Customer Fee codes to the Surcharge Fee described above.

Fee Codes for RUT Options—Routed Away

Proposed Fee code GC will be appended to all Customer orders in RUT options that are routed away from the Exchange and executed at another exchange, and result in a standard fee of $0.85 per contract. Proposed Fee code GM will be appended to all Market Maker orders in RUT options that are routed away from the Exchange and executed at another exchange, and result in a standard fee of $1.05 per contract. Proposed Fee code GN will be appended to all Non-Customer and Non-Market Maker orders in RUT options that are routed away from the Exchange and executed at another exchange, and result in a standard fee of $1.25 per contract. Proposed Fee code GO will be appended to all orders in RUT options that route to another exchange at the open, and will be free. Proposed Footnote 14 attaches each of these proposed Fee codes to the Surcharge Fee described above.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the Section 6 of the Act,[6] in general, and Section 6(b)(4),[7] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities.

First, the Exchange believes implementing the RUT Surcharge Fee is equitable and not unfairly discriminatory because the amount will be assessed to all orders of non-Customer market participants to whom the RUT Surcharge Fee applies. Not applying the RUT Surcharge Fee to Customer orders is equitable and not unfairly discriminatory because this is designed to attract Customer RUT orders, which increases liquidity and provides greater trading opportunities to all market participants.

Next, the Exchange believes it is reasonable to charge different fee amounts to different user types in the manner proposed because the proposed fees are consistent with the price differentiation that exists today at other options exchanges (for example, the proposed fees are comparable with fees for other index option products traded on other exchanges, including RUT).[8] Additionally, the Exchange believes the proposed fee amounts for RUT orders are reasonable because the proposed fee amounts are within the range of standard transaction fee amounts charged for RUT at other options exchanges (*i.e.,* Cboe Options and C2 Options).[9]

The Exchange also believes that it is equitable and not unfairly discriminatory to assess lower fees to Customers as compared to other market participants because Customer order flow enhances liquidity on the Exchange for the benefit of all market participants. Specifically, Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. Moreover, the options industry has a long history of providing preferential pricing to Customers, and the Exchange's current Fees Schedule currently does so in many places, as do the fees structures of many other exchanges. The Exchange notes that all fee amounts listed as applying to Customers will be applied equally to all Customers (meaning that all Customers will be assessed the same amount).

Additionally, the Exchange believes that it is equitable and not unfairly discriminatory to assess lower fees to Market Makers as compared to other market participants other than Customers because Market Makers, unlike other market participants, take on a number of obligations, including quoting obligations, that other market participants do not have. Further, these lower fees offered to Market Makers are intended to incent Market Makers to quote and trade more on BZX Options, thereby providing more trading opportunities for all market participants. The Exchange notes that all fee amounts listed as applying to Market Makers will be applied equally to all Market Makers (meaning that all Market Makers will be assessed the same amount). Similarly, the Exchange notes that the RUT fee amounts for each separate type of other market participant will be assessed equally to all such market participants (*i.e.* all Broker-Dealer orders will be assessed the same amount, all Joint Back-Office orders will be assessed the same amount, etc.).

Finally, the Exchange believes its proposed fees for RUT orders that are routed away from the Exchange are reasonable taking into account routing costs and also notes that the proposed fees are in line with amounts assessed by other exchanges.[10] For the reasons described above, the Exchange also believes that it is equitable and not unfairly discriminatory to assess lower routing fees to Customers and Market Makers as compared to other market participants. The Exchange notes that routing through the Exchange is voluntary and market participants can readily direct order flow to another exchange if they deem Exchange fee levels to be excessive.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposed amendments to its Fees Schedule would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the RUT fee amounts for each separate type of market participant will be assessed equally to all such market

[6] 15 U.S.C. 78f.

[7] 15 U.S.C. 78f(b)(4).

[8] *See, e.g.,* C2 Fees Schedule, Fee Codes and Associated Fees.

[9] *See e.g.,* C2 Fees Schedule, Fee Codes and Associated Fees, which shows that standard transaction fees for RUT orders range from $0.15 per contract to $0.55 per contract.

[10] *See, e.g.,* C2 Fees Schedule, Linkage Routing Fees.

participants. While different fees are assessed to different market participants in some circumstances, these different market participants have different obligations and different circumstances as discussed above. For example, Market Makers have quoting obligations that other market participants do not have. Further, the proposed fees structure for RUT is intended to encourage more trading of RUT, which brings liquidity to the Exchange and benefits all market participants.

The Exchange also does not believe that the proposed rule changes will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed RUT fees are in line with amounts assessed by other exchanges.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [11] and paragraph (f) of Rule 19b–4 thereunder.[12] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeBZX–2018–075 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–2018–075. 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–2018–075, and should be submitted on or before November 7, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–22533 Filed 10–16–18; 8:45 am]

BILLING CODE 8011–01–P

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84402; File No. SR–ISE–2018–83]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Certain Maker/Taker Fees in Section I of the Exchanges Schedule of Fees

October 11, 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 October 1, 2018, Nasdaq ISE, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend certain maker/taker fees in Section I of the Exchange's Schedule of Fees, as described further below.

The text of the proposed rule change is available on the Exchange's website at *http://ise.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the Exchange's

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Schedule of Fees to modify the Section I taker fee for Priority Customers [3] to $0.41, and the Section I maker fee for non-Priority Customers [4] to $0.11.

As provided in Section I of the Schedule of Fees, the Exchange currently charges Priority Customers a taker fee for regular orders in Select Symbols [5] that is $0.44 per contract, except in SPY, QQQ, IWM and VXX, where this fee is $0.40 per contract. The Exchange now proposes to charge Priority Customers a uniform taker fee of $0.41 per contract in all Select Symbols, and make a related change to delete the reference to the reduced taker fee for SPY, QQQ, IWM and VXX. As a result, while the reduced taker fee currently assessed for SPY, QQQ, IWM and VXX will be increased by $0.01 per contract, the fee will be decreased by $0.03 for all other Select Symbols.

As provided in Section I of the Schedule of Fees, the Exchange currently charges non-Priority Customers a maker fee in Select Symbols that is $0.10 per contract.[6] The Exchange now seeks to increase this fee to $0.11 per contract.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[8] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that it is reasonable to charge Priority Customers a uniform taker fee of $0.41 per contract in all Select Symbols and no longer differentiate between the different products, as described above. While the reduced taker fee currently assessed for SPY, QQQ, IWM and VXX will be increased by $0.01 per contract, this fee will be decreased by $0.03 for all other Select Symbols. As such, the Exchange believes the modest increase in the taker fee for SPY, QQQ, IWM and VXX will be offset by the larger decrease for all other Select Symbols, and will also simplify Priority Customer taker pricing by assessing a uniform fee for Priority Customer all Select Symbols instead of differentiating by product. Furthermore, the proposed taker fee of $0.41 per contract continues to be competitive with another options exchange,[9] and also remains lower than the fees charged to other market participants that remove Select Symbol liquidity on the Exchange.[10]

In addition, the Exchange believes that this proposal is equitable and not unfairly discriminatory because the Exchange will apply the same taker fee to all similarly situated members in a uniform manner. The Exchange does not believe that it is unfairly discriminatory to offer a lower taker fee to Priority Customers. Priority Customer interest brings valuable liquidity to the market, which liquidity benefits other market participants. Priority Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

The Exchange believes that its proposal to increase the maker fee for all non-Priority Customer transactions in Select Symbols from $0.10 to $0.11 per contract is reasonable because it is a modest increase, and is in part to offset the proposed reduction in taker fees as described above. Furthermore, Market Makers that qualify for Market Maker Plus will not pay the maker fee if they meet the applicable tier thresholds set forth in the table within Section I of the Schedule of Fees and will instead receive a rebate based on the applicable tier for which they qualify.[11] The Exchange also notes that its maker pricing as proposed for non-Priority Customers herein remains competitive compared to another options exchange.[12] The Exchange further believes that its proposed maker pricing is equitable and not unfairly discriminatory because the Exchange will apply the same maker fee to all similarly situated members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange's proposal to modify the Priority Customer taker fee and non-Priority Customer maker fee in Section I, each as described above, does not impose an undue burden on competition because the Exchange believes that its maker/taker pricing remains competitive compared to other options exchanges.[13] Furthermore, the Exchange would uniformly assess the proposed maker/taker fees to all similarly situated market participants, as discussed above. 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 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 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.

[3] A ''Priority Customer'' is a person or entity that is not a broker/dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s), as defined in Nasdaq ISE Rule 100(a)(37A).

[4] Non-Priority Customers are Market Makers, Non-Nasdaq ISE Market Makers, Firm Proprietary/Broker-Dealers, and Professional Customers.

[5] ''Select Symbols'' are options overlying all symbols listed on the Nasdaq ISE that are in the Penny Pilot Program.

[6] As it relates solely to Market Makers, however: (i) Market Makers that qualify for Market Maker Plus will not pay this fee if they meet the applicable tier thresholds set forth in the table within Section I of the Schedule of Fees and will instead receive a rebate based on the applicable tier for which they qualify; (ii) no fee will be charged or rebate provided when trading against non-Priority Customer complex orders that leg into the regular order book; and (iii) a $0.15 per contract fee applies instead of the applicable fee or rebate when trading against Priority Customer complex orders that leg into the regular order book. A $0.15 per contract fee likewise applies to Non-Nasdaq ISE Market Makers instead of the applicable fee or rebate when trading against Priority Customer complex orders that leg into the regular order book. These fees and rebates are not changing under this proposal.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4) and (5).

[9] For instance, Cboe C2 Options Exchange (''C2'') charges its public customers a $0.43 per contract fee for removing liquidity in penny classes. *See* C2 Fees Schedule, Transaction Fees.

[10] Specifically, this fee is currently $0.45 per contract for Market Maker orders and $0.46 per contract for Non-Nasdaq ISE Market Maker orders, Firm Proprietary/Broker-Dealer orders, and Professional Customer orders. *See* Schedule of Fees, Section I.

[11] *See* Schedule of Fees, Section I, note 5.

[12] For instance, Nasdaq PHLX (''Phlx'') charges non-Customers the following Penny Pilot options transaction charges: $0.22 per contract for Specialists and Market Makers (plus a $0.25 per contract marketing fee in Penny Pilot options that is applied to those who elect to participate in the Marketing program for a total of $0.47 per contract); and $0.48 per contract for Broker-Dealers, Firms, and Professionals. *See* Phlx Pricing Schedule, Section II.

[13] *See* notes 9 and 12 above.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[14] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov. Please include File Number SR–ISE–2018–83 on the subject line.*

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number *SR–ISE–2018–83.* This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number *SR–ISE–2018–83* and should be submitted on or before November 7, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–22538 Filed 10–16–18; 8:45 am]

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[14] 15 U.S.C. 78s(b)(3)(A)(ii).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84404; File No. SR–CboeBYX–2018–022]

Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Introduce Equities Purge Ports To (1) Establish Purge Ports for Equities Trading and Amend the Interpretations and Policies to Rule 11.10, Order Execution, To Reflect the Proposed Purge Ports, and (2) Modify the Fee Schedule Applicable to the Exchange's Equities Platform (''BYX Equities'') To Identify and To Set Fees for Purge Ports

October 11, 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 September 28, 2018, Cboe BYX Exchange, Inc. (''Exchange'' or ''BYX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to: (1) Establish Purge Ports for equities trading and amend the Interpretations and Policies to Rule 11.13, Order Execution and Routing, to reflect the proposed Purge Ports, and (2) modify the BYX fee schedule to identify and to set fees for Purge Ports.

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 purpose of the proposed rule change is to offer Users[5] an additional tool to manage risk and exercise additional control over their quotations in equity securities (*i.e.,* ''Purge Ports''). Specifically, the Exchange proposes to: (1) Establish Purge Ports for equities trading and amend the Interpretations and Policies to Rule 11.13, Order Execution and Routing, to reflect the proposed Purge Ports, and (2) modify the BYX fee schedule to identify and to set fees for Purge Ports.

Purge Ports are already available on the Exchange's affiliated options markets—*i.e.,* the options trading

[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).

[5] A ''User'' is any Member or Sponsored Participant who is authorized to obtain access to the System pursuant to Rule 11.3. *See* Rule 1.5(cc).

platform of Cboe BZX Exchange, Inc. (''BZX Options''), the options trading platform of Cboe EDGX Exchange, Inc. (''EDGX Options''), and Cboe C2 Exchange, Inc. (''C2'').[6] Based on the successful experience with Purge Ports for options, and in response to demand for similar functionality for equities trading, the Exchange has determined to offer Purge Ports on BYX. The Exchange believes that the proposed Purge Port functionality will provide an effective tool for Users to manage their risk associated with equities trading.

Background

A logical port represents a port established by the Exchange within the Exchange's system for trading and billing purposes. Each logical port established is specific to a Member or non-Member and grants that Member or non-Member the ability to accomplish a specific function, such as order entry, order cancellation, or data receipt. In addition, logical ports enable Users to access information such as execution reports, execution report messages, auction notifications, and administrative data through a single feed.

Purge Ports

The Exchange now proposes to amend the Interpretations and Policies to Rule 11.13, Order Execution and Routing, to identify Purge Ports, a new type of logical port that would enable Users to cancel all open orders, or a subset thereof, across multiple logical ports through a single cancel message. The Exchange also proposes to amend the BYX fee schedule to adopt fees for Purge Ports.

The proposed ports are designed to assist Users, including Market Makers,[7] in the management of, and risk control over, their quotes, particularly if the firm is quoting a large number of securities. For example, if a Market Maker detects market indications that may influence the direction or bias of his or her quotes, the Market Maker may use the proposed Purge Port(s) to reduce uncertainty and to manage risk by purging all quotes in a number of securities. This would allow the firm to seamlessly avoid unintended executions, while continuing to evaluate the direction of the market. While Purge Ports will be available to all Users, the Exchange anticipates they will be used primarily by Market Makers or firms that conduct similar business activity and are therefore exposed to a large amount of risk across a number securities.

Users may currently cancel orders through their existing logical ports. In addition, the Exchange offers risk functionality pursuant to Interpretation and Policies .01 to Rule 11.13 that permits Users to block new orders from being submitted, to cancel all open orders, or to both block new orders and cancel all open orders. In addition to the current risk functionality, which is being retained, the Exchange now proposes to expand the ability of Users to cancel orders through the proposed Purge Ports, which would enable them to cancel all open orders, or a subset thereof, across multiple logical ports through a single cancel message. The mass cancel request may be limited to a subset of orders by identifying the range of orders to be purged. Users may also request via a Purge Port that the Exchange block all or a subset of new orders submitted, and the block will remain in effect until the User requests that the Exchange remove the block.

The Exchange proposes to amend the Interpretations and Policies to Rule 11.13, Order Execution and Routing, to reflect the proposed Purge Port functionality. As described above, Interpretation and Policies .01 to Rule 11.13 currently states that the Exchange offers risk functionality that permits Users to block new orders submitted, to cancel all open orders, or to both block new orders and cancel all open orders. The Exchange proposes to move this language to Interpretations and Policies .02(a) to Rule 11.13,[8] and add additional language to describe the flexibility provided using the proposed Purge Ports. Specifically, as proposed, Interpretations and Policies .02(b) to Rule 11.13 will state that a ''Purge Port'' is a dedicated port that permits a User to simultaneously cancel all or a subset of its orders in one or more symbols across multiple logical ports by requesting the Exchange to effect such cancellation. The proposed rule will also provide that a User initiating such a request may also request that the Exchange block all or a subset of its new inbound orders in one or more symbols across multiple logical ports. The block will remain in effect until the User requests the Exchange remove the block.

In addition, the Exchange proposes to modify the Logical Port Fees section of the BYX fee schedule to adopt a fee for Purge Ports of $650 per port/per month, which would compensate the Exchange for the investment that it has made in making Purge Ports available to firms that believe they would benefit from a dedicated purge mechanism. Only firms that request Purge Ports would be subject to the proposed fees, and other firms can continue to operate in exactly the same manner as they do today without dedicated Purge Ports.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[9] Specifically, the proposed rule change is consistent with Sections 6(b)(4) and 6(b)(5) of the Act,[10] because it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities, and is designed 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 would promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market because offering Users, including Market Makers, designated Purge Ports would enhance their ability to manage quotes, quote traffic, and their quoting obligations,[11] which would, in turn, improve their risk controls to the benefit of all market participants. The Exchange believes that the Purge Ports would foster cooperation and coordination with persons engaged in facilitating transactions in securities because designating Purge Ports for purge messages (including blocking subsequent order entry) may encourage better use of such dedicated ports. This may, concurrent with the logical ports that carry quote and other information necessary for market making activities, enable more efficient, as well as fair and reasonable, use of Market Makers'

[6] *See* Securities Exchange Act Release Nos. 79956 (February 3, 2017), 82 FR 10102 (February 9, 2017) (SR–BatsBZX–2017–05); 79957 (February 3, 2017), 82 FR 10070 (February 9, 2017) (SR–BatsEDGX–2017–07); 83201 (May 9, 2018), 83 FR 22546 (May 15, 2018) (SR–C2–2018–006).

[7] A ''Market Maker'' is a Member that acts as a Market Maker pursuant to Chapter XI. *See* Rule 1.5(l).

[8] The Exchange also proposes to make a non-substantive change that deletes the introductory clause of this sentence.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(4) and (5).

[11] *See* Rule 11.8(d).

resources. Although dedicated Purge Ports are a new innovation for equities exchanges, similar connectivity and functionality is offered by options exchanges, including the Exchange's own affiliated options exchanges.[12] The Exchange believes that proper risk management, including the ability to efficiently cancel multiple orders at once, is similarly important to firms that trade in the equities market, including Market Makers that have heightened quoting obligations that are not applicable to other market participants.

The proposed rule change will not relieve Market Makers of their continuous quoting obligations under Rule 11.8(d) or firm quote obligations under Regulation NMS Rule 602.[13] Specifically, any interest that is executable against a User's or Market Maker's quotes and orders that is received by the Exchange prior to the time of the removal of quotes request will automatically execute at that price, up to the quote's size. Market Makers that purge their quotes will not be relieved of the obligation to provide continuous two-sided quotes on a daily basis, nor will it prohibit the Exchange from taking disciplinary action against a Market Maker for failing to meet their continuous quoting obligation each trading day.

Dedicated Purge Ports, which were originally introduced for options trading, are a new feature in the equities market, and the Exchange is the first equities exchange to offer this functionality to Users. The Exchange has incurred additional infrastructure and technology costs in offering the proposed Purge Ports, including costs associated with the purchase of new hardware to support these dedicated ports, and software development, testing, and certification work associated with the risk management functionality made available through such ports. The Exchange also has continuing costs associated with maintenance and monitoring of the proposed ports. The Exchange believes that its proposed fees should facilitate the ability of the Exchange to recoup some costs associated with Purge Ports as well as provide, maintain, and improve Purge Ports.[14] The proposed fees therefore directly support the introduction of new and innovative risk management features to the market.

The Exchange believes the proposed fee for Purge Ports is equitable and reasonable. The Exchange currently charges $550 per port/per month for logical ports.[15] The Exchange believes it is equitable and reasonable to charge $650 per month for the proposed Purge Ports as such ports were specially developed to allow for the sending of a single message to cancel multiple orders, thereby assisting firms in effectively managing risk. In addition, Purge Port requests may cancel orders submitted over numerous ports and contain added functionality to purge only a subset of these orders. Effective risk management is important both for individual market participants that choose to utilize risk features provided by the Exchange, as well as for the market in general. As a result, the Exchange believes that it is appropriate to charge fees that compensate for the development of such functionality as doing so aids in the maintenance of a fair and orderly market.

The Exchange also believes that offering such functionality at the Exchange level promotes robust risk management across the industry, and thereby facilitates investor protection. Some market participants, and, in particular, the larger firms could build similar risk functionality on their trading systems that permit the flexible cancellation of orders entered on the Exchange. Offering Exchange level protections ensures that such functionality is widely available to all firms, including smaller firms that may otherwise not be willing to incur the costs and development work necessary to support their own customized mass cancel functionality.

Although the Exchange is the first exchange to develop and offer dedicated Purge Ports for equities trading, the proposed rate is lower than that charged by options exchanges for similar functionality, including the fees charged by the Exchange's affiliated options exchanges for Options Purge Ports, which are billed at a rate of $750 per month, and fees charged by unaffiliated options exchanges, such as ISE, which charges a fee of $1,100 per month for SQF Purge Ports. The Exchange operates in a highly competitive market in which exchanges offer connectivity and related services as a means to facilitate the trading activities of Members and other participants. As the proposed Purge Ports provide voluntary risk management functionality, excessive fees would simply serve to reduce demand for this optional product.

The Exchange also believes that the proposed amendments to its fee schedule are not unfairly discriminatory because they will apply uniformly to all Members that choose to use dedicated Purge Ports. The proposed Purge Ports are completely voluntary and, as they relate solely to optional risk management functionality, no Member is required or under any regulatory obligation to utilize them. The Exchange believes that adopting separate fees for these ports ensures that the associated costs are borne exclusively by Members that determine to use them based on their business needs, including Market Makers or similarly situated market participants that enter orders simultaneously in a number of securities. All Members that voluntarily select this service option will be charged the same amount for the same services. All Members have the option to select any connectivity option, and there is no differentiation among Members with regard to the fees charged for the services offered by the Exchange.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange believes the proposed rule change will enhance competition because it will enable the Exchange to innovate and offer similar equities Purge Port functionality to that offered on options markets today, at a competitive price.[16] The proposed Purge Ports are completely voluntary and will be made available to all Members on an equal basis. While the Exchange believes that the proposed Purge Ports provide a valuable service, Members can choose to purchase, or not purchase, these ports based on their business needs. No Member is required or under any regulatory obligation to utilize Purge Ports. Furthermore, fees for Purge Ports, and connectivity in general, are constrained by the robust competition for order flow among exchanges and non-exchange markets. Members may opt to disfavor the Exchange's pricing if they believe that alternatives offer them better value. As a result, excessive fees for connectivity, including Purge Port fees, would serve to impair the Exchange's ability to compete for order flow rather than

[12] *See* supra note 7. *See also e.g.* Nasdaq ISE, LLC, Schedule of Fees, V. Connectivity Fees, C. Ports and Other Services, SQF Purge Port Fee.

[13] 17 CFR 242.602.

[14] Purge Ports will be fee liable on a monthly basis (and not only when such ports are active), which will help the Exchange to recoup the cost of these ports.

[15] The fee for Multicast PITCH Spin Server ports provides access to a set of primary ports (A or C feed) and the fee for Multicast PITCH GRP Ports provides access to a primary port (A or C feed).

[16] *See* supra note 13.

burdening competition. Accordingly, the Exchange believes that the proposed rule change is designed to offer appropriate risk management functionality to firms that trade on the Exchange without imposing an unnecessary or inappropriate burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No comments were solicited or received 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)(iii) of the Act [17] and subparagraph (f)(6) of Rule 19b–4 thereunder.[18]

A proposed rule change filed under Rule 19b–4(f)(6) [19] normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b–4(f)(6)(iii) [20] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become effective and operative immediately upon filing. The Exchange noted that its affiliated options exchanges provide Purge Ports and that they have been successful for options. The Exchange noted that there is a demand for Purge Ports for equities and that it believes that the Purge Ports will provide an effective risk management tool for Users trading equities. The Commission believes that Purge Ports may be a helpful tool for managing the risk associated with trading equities, and notes that this can be important both for individual market participants and the market in general. Accordingly, the Commission believes that permitting this feature to be operative upon filing is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.[21]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR-CboeBYX–2018–022 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-CboeBYX–2018–022. 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–CboeBYX–2018–022 and should be submitted on or before November 7, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–22534 Filed 10–16–18; 8:45 am]

BILLING CODE 8011–01–P

[17] 15 U.S.C. 78s(b)(3)(A)(iii).

[18] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[19] 17 CFR 240.19b–4(f)(6).

[20] 17 CFR 240.19b–4(f)(6)(iii).

[21] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84405; File No. SR–CboeEDGA–2018–016]

Self-Regulatory Organizations; Cboe EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Introduce Equities Purge Ports to (1) Establish Purge Ports for Equities Trading and Amend the Interpretations and Policies to Rule 11.10, Order Execution, To Reflect the Proposed Purge Ports, and (2) Modify the Fee Schedule Applicable to the Exchange's Equities Platform (''EDGA Equities'') To Identify and To Set Fees for Purge Ports

October 11, 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 September 28, 2018, Cboe EDGA Exchange, Inc. (''Exchange'' or ''EDGA'') 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)

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

of the Act [3] and Rule 19b4(f)(6)(iii) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to (1) establish Purge Ports for equities trading and amend the Interpretations and Policies to Rule 11.10, Order Execution, to reflect the proposed Purge Ports, and (2) modify the EDGA fee schedule to identify and to set fees for Purge Ports. The Exchange has designated this proposal as non-controversial and provided the Commission with the notice required by Rule 19b–4(f)(6)(iii) under the Act.[5]

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 purpose of the proposed rule change is to offer Users [6] an additional tool to manage risk and exercise additional control over their quotations in equity securities (*i.e.,* ''Purge Ports''). Specifically, the Exchange proposes to: (1) Establish Purge Ports for equities trading and amend the Interpretations and Policies to Rule 11.10, Order Execution, to reflect the proposed Purge Ports, and (2) modify the EDGA fee schedule to identify and to set fees for Purge Ports.

Purge Ports are already available on the Exchange's affiliated options markets—*i.e.,* the options trading platform of Cboe BZX Exchange, Inc. (''BZX Options''), the options trading platform of Cboe EDGX Exchange, Inc. (''EDGX Options''), and Cboe C2 Exchange, Inc. (''C2'').[7] Based on the successful experience with Purge Ports for options, and in response to demand for similar functionality for equities trading, the Exchange has determined to offer Purge Ports on EDGA. The Exchange believes that the proposed Purge Port functionality will provide an effective tool for Users to manage their risk associated with equities trading.

Background

A logical port represents a port established by the Exchange within the Exchange's system for trading and billing purposes. Each logical port established is specific to a Member or non-Member and grants that Member or non-Member the ability to accomplish a specific function, such as order entry, order cancellation, or data receipt. In addition, logical ports enable Users to access information such as execution reports, execution report messages, auction notifications, and administrative data through a single feed.

Purge Ports

The Exchange now proposes to amend the Interpretations and Policies to Rule 11.10, Order Execution, to identify Purge Ports, a new type of logical port that would enable Users to cancel all open orders, or a subset thereof, across multiple logical ports through a single cancel message. The Exchange also proposes to amend the EDGA fee schedule to adopt fees for Purge Ports.

The proposed ports are designed to assist Users, including Market Makers,[8] in the management of, and risk control over, their quotes, particularly if the firm is quoting a large number of securities. For example, if a Market Maker detects market indications that may influence the direction or bias of his or her quotes, the Market Maker may use the proposed Purge Port(s) to reduce uncertainty and to manage risk by purging all quotes in a number of securities. This would allow the firm to seamlessly avoid unintended executions, while continuing to evaluate the direction of the market. While Purge Ports will be available to all Users, the Exchange anticipates they will be used primarily by Market Makers or firms that conduct similar business activity and are therefore exposed to a large amount of risk across a number securities.

Users may currently cancel orders through their existing logical ports. In addition, the Exchange offers risk functionality pursuant to Interpretation and Policies .01 to Rule 11.10 that permits Users to block new orders from being submitted, to cancel all open orders, or to both block new orders and cancel all open orders. In addition to the current risk functionality, which is being retained, the Exchange now proposes to expand the ability of Users to cancel orders through the proposed Purge Ports, which would enable them to cancel all open orders, or a subset thereof, across multiple logical ports through a single cancel message. The mass cancel request may be limited to a subset of orders by identifying the range of orders to be purged. Users may also request via a Purge Port that the Exchange block all or a subset of new orders submitted, and the block will remain in effect until the User requests that the Exchange remove the block.

The Exchange proposes to amend the Interpretations and Policies to Rule 11.10, Order Execution, to reflect the proposed Purge Port functionality. As described above, Interpretation and Policies .01 to Rule 11.10 currently states that the Exchange offers risk functionality that permits Users to block new orders submitted, to cancel all open orders, or to both block new orders and cancel all open orders. The Exchange proposes to move this language to Interpretations and Policies .02(a) to Rule 11.10,[9] and add additional language to describe the flexibility provided using the proposed Purge Ports. Specifically, as proposed, Interpretations and Policies .02(b) to Rule 11.10 will state that a ''Purge Port'' is a dedicated port that permits a User to simultaneously cancel all or a subset of its orders in one or more symbols across multiple logical ports by requesting the Exchange to effect such cancellation. The proposed rule will also provide that a User initiating such a request may also request that the Exchange block all or a subset of its new inbound orders in one or more symbols

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6)(iii).

[5] 17 CFR 240.19b–4(f)(6)(iii).

[6] A ''User'' is any Member or Sponsored Participant who is authorized to obtain access to the System pursuant to Rule 11.3. *See* Rule 1.5(ee).

[7] *See* Securities Exchange Act Release Nos. 79956 (February 3, 2017), 82 FR 10102 (February 9, 2017) (SR–BatsBZX–2017–05); 79957 (February 3, 2017), 82 FR 10070 (February 9, 2017) (SR–BatsEDGX–2017–07); 83201 (May 9, 2018), 83 FR 22546 (May 15, 2018) (SR–C2–2018–006).

[8] A ''Market Maker'' is a Member that acts as a Market Maker pursuant to Chapter XI. *See* Rule 1.5(l).

[9] The Exchange also proposes to make a non-substantive change that deletes the introductory clause of this sentence.

across multiple logical ports. The block will remain in effect until the User requests the Exchange remove the block.

In addition, the Exchange proposes to modify the Logical Port Fees section of the EDGA fee schedule to adopt a fee for Purge Ports of $650 per port/per month, which would compensate the Exchange for the investment that it has made in making Purge Ports available to firms that believe they would benefit from a dedicated purge mechanism. Only firms that request Purge Ports would be subject to the proposed fees, and other firms can continue to operate in exactly the same manner as they do today without dedicated Purge Ports.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[10] Specifically, the proposed rule change is consistent with Sections 6(b)(4) and 6(b)(5) of the Act,[11] because it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities, and is designed 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 would promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market because offering Users, including Market Makers, designated Purge Ports would enhance their ability to manage quotes, quote traffic, and their quoting obligations,[12] which would, in turn, improve their risk controls to the benefit of all market participants. The Exchange believes that the Purge Ports would foster cooperation and coordination with persons engaged in facilitating transactions in securities because designating Purge Ports for purge messages (including blocking subsequent order entry) may encourage better use of such dedicated ports. This may, concurrent with the logical ports that carry quote and other information necessary for market making activities, enable more efficient, as well as fair and reasonable, use of Market Makers' resources. Although dedicated Purge Ports are a new innovation for equities exchanges, similar connectivity and functionality is offered by options exchanges, including the Exchange's own affiliated options exchanges.[13] The Exchange believes that proper risk management, including the ability to efficiently cancel multiple orders at once, is similarly important to firms that trade in the equities market, including Market Makers that have heightened quoting obligations that are not applicable to other market participants.

The proposed rule change will not relieve Market Makers of their continuous quoting obligations under Rule 11.20(d) or firm quote obligations under Regulation NMS Rule 602.[14] Specifically, any interest that is executable against a User's or Market Maker's quotes and orders that is received by the Exchange prior to the time of the removal of quotes request will automatically execute at that price, up to the quote's size. Market Makers that purge their quotes will not be relieved of the obligation to provide continuous two-sided quotes on a daily basis, nor will it prohibit the Exchange from taking disciplinary action against a Market Maker for failing to meet their continuous quoting obligation each trading day.

Dedicated Purge Ports, which were originally introduced for options trading, are a new feature in the equities market, and the Exchange is the first equities exchange to offer this functionality to Users. The Exchange has incurred additional infrastructure and technology costs in offering the proposed Purge Ports, including costs associated with the purchase of new hardware to support these dedicated ports, and software development, testing, and certification work associated with the risk management functionality made available through such ports. The Exchange also has continuing costs associated with maintenance and monitoring of the proposed ports. The Exchange believes that its proposed fees should facilitate the ability of the Exchange to recoup some costs associated with Purge Ports as well as provide, maintain, and improve Purge Ports.[15] The proposed fees therefore directly support the introduction of new and innovative risk management features to the market.

The Exchange believes the proposed fee for Purge Ports is equitable and reasonable. The Exchange currently charges $550 per port/per month for logical ports.[16] The Exchange believes it is equitable and reasonable to charge $650 per month for the proposed Purge Ports as such ports were specially developed to allow for the sending of a single message to cancel multiple orders, thereby assisting firms in effectively managing risk. In addition, Purge Port requests may cancel orders submitted over numerous ports and contain added functionality to purge only a subset of these orders. Effective risk management is important both for individual market participants that choose to utilize risk features provided by the Exchange, as well as for the market in general. As a result, the Exchange believes that it is appropriate to charge fees that compensate for the development of such functionality as doing so aids in the maintenance of a fair and orderly market.

The Exchange also believes that offering such functionality at the Exchange level promotes robust risk management across the industry, and thereby facilitates investor protection. Some market participants, and, in particular, the larger firms could build similar risk functionality on their trading systems that permit the flexible cancellation of orders entered on the Exchange. Offering Exchange level protections ensures that such functionality is widely available to all firms, including smaller firms that may otherwise not be willing to incur the costs and development work necessary to support their own customized mass cancel functionality.

Although the Exchange is the first exchange to develop and offer dedicated Purge Ports for equities trading, the proposed rate is lower than that charged by options exchanges for similar functionality, including the fees charged by the Exchange's affiliated options exchanges for Options Purge Ports, which are billed at a rate of $750 per month, and fees charged by unaffiliated options exchanges, such as ISE, which charges a fee of $1,100 per month for SQF Purge Ports. The Exchange operates in a highly competitive market in which exchanges offer connectivity and related services as a means to facilitate the

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(4) and (5).

[12] *See* Rule 11.20(d).

[13] *See* supra note 8. *See also e.g.* Nasdaq ISE, LLC, Schedule of Fees, V. Connectivity Fees, C. Ports and Other Services, SQF Purge Port Fee.

[14] 17 CFR 242.602.

[15] Purge Ports will be fee liable on a monthly basis (and not only when such ports are active), which will help the Exchange to recoup the cost of these ports.

[16] The fee for Multicast PITCH Spin Server ports provides access to a set of primary ports (A or C feed) and the fee for Multicast PITCH GRP Ports provides access to a primary port (A or C feed).

trading activities of Members and other participants. As the proposed Purge Ports provide voluntary risk management functionality, excessive fees would simply serve to reduce demand for this optional product.

The Exchange also believes that the proposed amendments to its fee schedule are not unfairly discriminatory because they will apply uniformly to all Members that choose to use dedicated Purge Ports. The proposed Purge Ports are completely voluntary and, as they relate solely to optional risk management functionality, no Member is required or under any regulatory obligation to utilize them. The Exchange believes that adopting separate fees for these ports ensures that the associated costs are borne exclusively by Members that determine to use them based on their business needs, including Market Makers or similarly situated market participants that enter orders simultaneously in a number of securities. All Members that voluntarily select this service option will be charged the same amount for the same services. All Members have the option to select any connectivity option, and there is no differentiation among Members with regard to the fees charged for the services offered by the Exchange.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange believes the proposed rule change will enhance competition because it will enable the Exchange to innovate and offer similar equities Purge Port functionality to that offered on options markets today, at a competitive price.[17] The proposed Purge Ports are completely voluntary and will be made available to all Members on an equal basis. While the Exchange believes that the proposed Purge Ports provide a valuable service, Members can choose to purchase, or not purchase, these ports based on their business needs. No Member is required or under any regulatory obligation to utilize Purge Ports. Furthermore, fees for Purge Ports, and connectivity in general, are constrained by the robust competition for order flow among exchanges and non-exchange markets. Members may opt to disfavor the Exchange's pricing if they believe that alternatives offer them better value. As a result, excessive fees for connectivity, including Purge Port fees, would serve to impair the Exchange's ability to compete for order flow rather than burdening competition. Accordingly, the Exchange believes that the proposed rule change is designed to offer appropriate risk management functionality to firms that trade on the Exchange without imposing an unnecessary or inappropriate burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No comments were solicited or received 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)(iii) of the Act[18] and subparagraph (f)(6) of Rule 19b–4 thereunder.[19]

A proposed rule change filed under Rule 19b–4(f)(6)[20] normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b–4(f)(6)(iii)[21] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become effective and operative immediately upon filing. The Exchange noted that its affiliated options exchanges provide Purge Ports and that they have been successful for options. The Exchange noted that there is a demand for Purge Ports for equities and that it believes that the Purge Ports will provide an effective risk management tool for Users trading equities. The Commission believes that Purge Ports may be a helpful tool for managing the risk associated with trading equities, and notes that this can be important both for individual market participants and the market in general. Accordingly, the Commission believes that permitting this feature to be operative upon filing is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.[22]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeEDGA–2018–016 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR-CboeEDGA–2018–016. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the

[17] *See* supra note 14.

[18] 15 U.S.C. 78s(b)(3)(A)(iii).

[19] 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.

[20] 17 CFR 240.19b–4(f)(6).

[21] 17 CFR 240.19b–4(f)(6)(iii).

[22] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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–CboeEDGA–2018–016 and should be submitted on or before November 7, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–22536 Filed 10–16–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 33268; 812–14903]

Destra International & Event-Driven Credit Fund and Destra Capital Advisors LLC; Notice of Application

October 11, 2018.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of an application under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 18(a)(2), 18(c) and 18(i) of the Act, under sections 6(c) and 23(c) of the Act for an exemption from rule 23c–3 under the Act, and for an order pursuant to section 17(d) of the Act and rule 17d–1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain registered closed-end management investment companies to issue multiple classes of shares and to impose asset-based distribution and/or service fees, early withdrawal charges (''EWCs''), and early repurchase fees.

APPLICANTS: Destra International & Event-Driven Credit Fund (the ''Initial Fund'') and Destra Capital Advisors LLC (the ''Adviser'').

FILING DATES: The application was filed on May 4, 2018 and an amendment on August 22, 2018.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on November 5, 2018, and should be accompanied by proof of service on the applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090; Applicants, 444 West Lake Street, Suite 1700, Chicago, IL 60606.

FOR FURTHER INFORMATION CONTACT: Benjamin Kalish, Attorney-Advisor, at (202) 551–7361 or Parisa Haghshenas, Branch Chief, at (202) 551–6723 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's website by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Initial Fund is a Delaware statutory trust that is registered under the Act as a non-diversified, closed-end management investment company. The Initial Fund's investment objective is to provide attractive total returns, consisting of income and capital appreciation.

2. The Adviser, a Delaware limited liability company, is registered as an investment adviser under the Investment Advisers Act of 1940, as amended. The Adviser serves as investment adviser to the Initial Fund.

3. The applicants seek an order to permit the Initial Fund to issue multiple classes of shares, each having its own fee and expense structure, and to impose asset-based distribution and/or service fees with respect to certain classes and EWCs.

4. Applicants request that the order also apply to any continuously offered registered closed-end management investment company that has been previously organized or that may be organized in the future for which the Adviser, or any entity controlling, controlled by, or under common control with the Adviser, or any successor in interest to any such entity,[1] acts as investment adviser and which operates as an interval fund pursuant to rule 23c–3 under the Act or provides periodic liquidity with respect to its shares pursuant to rule 13e–4 under the Securities Exchange Act of 1934 (''Exchange Act'') (each, a ''Future Fund'' and together with the Initial Fund, the ''Funds'').[2]

5. The Initial Fund currently issues a single class of common shares in connection with its registration statement. Applicants state that additional offerings by any Fund relying on the order may be on a private placement or public offering basis. Shares of the Funds will not be listed on any securities exchange, nor quoted on any quotation medium. The Funds do not expect there to be a secondary trading market for their shares.

6. If the requested relief is granted, the Initial Fund intends to redesignate its common shares as ''Class I Shares'' and to file an amendment to its registration statement in order to continuously offer additional classes of shares, currently contemplated to be named ''Class A Shares,'' ''Class L Shares'', and ''Class T Shares.'' Because of the different distribution fees, shareholder services fees, and any other class expenses that may be attributable to the Class I Shares, Class A Shares, Class L Shares, and Class T Shares, the net income attributable to, and any dividends payable on, each class of shares may differ from each other. The Fund's Class I Shares will be subject to other expenses but not a front-end sales charge nor a distribution fee or a service fee. The Fund's Class A Shares will be subject to other expenses including a front-end sales charge and a service fee but not a distribution fee. The Fund's Class L Shares and Class T Shares will

[23] 17 CFR 200.30–3(a)(12).

[1] A successor in interest is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization.

[2] Any Fund relying on this relief in the future will do so in a manner consistent with the terms and conditions of the application. Applicants represent that each entity presently intending to rely on the requested relief is listed as an applicant.

each be subject to other expenses including a front-end sales charge, distribution fee, and service fee. Currently, Class I Shares, Class A Shares, Class L Shares and Class T Shares will not be subject to an EWC.

7. Applicants state that, from time to time, a Fund may create additional classes of shares the terms of which may differ from their other share classes, in the following respects: (1) The amount of fees permitted by different distribution plans or different service fee arrangements; (2) voting rights with respect to a distribution plan of a class; (3) different class designations; (4) the impact of any class expenses directly attributable to a particular class of Shares allocated on a class basis as described in the application; (5) any differences in dividends and net asset value resulting from differences in fees under a distribution plan or servie fee arrangement or in class expenses; (6) any EWC or other sales load structure; and (7) exchange or conversion privileges of the classes as permitted under the Act.

8. Applicants state that shares of a Fund may be subject to an early repurchase fee (''Early Repurchase Fee'') at a rate of no greater than 2% of the shareholder's repurchase proceeds if the interval between the date of purchase of the shares and the valuation date with respect to the repurchase of those shares is less than one year. Any Early Repurchase Fees will apply equally to all classes of shares of a Fund, consistent with section 18 of the Act and rule 18f–3 thereunder. To the extent a Fund determines to waive, impose scheduled variations of, or eliminate any Early Repurchase Fee, it will do so consistently with the requirements of rule 22d–1 under the Act as if the Early Repurchase Fee were a CDSL (defined below) and as if the Fund were an open-end investment company and the Fund's waiver of, scheduled variation in, or elimination of, any such Early Repurchase Fee will apply uniformly to all shareholders of the Fund regardless of class. Applicants state that the Initial Fund does not intend to impose an Early Repurchase Fee

9. Applicants state that the Initial Fund has adopted a fundamental policy to repurchase a specified percentage of its shares at net asset value on a quarterly basis. Such repurchase offers will be conducted pursuant to rule 23c–3 under the Act. Any Future Funds will likewise adopt fundamental investment policies and make periodic repurchase offers to its shareholders in compliance with rule 23c–3 or will provide periodic liquidity with respect to its shares pursuant to rule 13e–4 under the Exchange Act.[3] Any repurchase offers made by the Funds will be made to all holders of shares of each such Fund.

10. Applicants represent that any asset-based service and/or distribution fees for each class of shares of the Funds will comply with the provisions of the FINRA Rule 2341(d) (''FINRA Sales Charge Rule'').[4] Applicants also represent that each Fund will disclose in its prospectus the fees, expenses and other characteristics of each class of shares offered for sale by the prospectus, as is required for open-end, multiple class funds under Form N–1A. As is required for open-end funds, each Fund will disclose its expenses in shareholder reports, and describe any arrangements that result in breakpoints in, or elimination of, sales loads in its prospectus.[5] In addition, applicants will comply with applicable enhanced fee disclosure requirements for fund of funds, including registered funds of hedge funds.[6]

11. Each of the Funds will comply with any requirements that the Commission or FINRA may adopt regarding disclosure at the point of sale and in transaction confirmations about the costs and conflicts of interest arising out of the distribution of open-end investment company shares, and regarding prospectus disclosure of sales loads and revenue sharing arrangements, as if those requirements applied to the Fund. In addition, each Fund will contractually require that any distributor of the Fund's shares comply with such requirements in connection with the distribution of such Fund's shares.

12. Each Fund will allocate all expenses incurred by it among the various classes of shares based on the net assets of that Fund attributable to each class, except that the net asset value and expenses of each class will reflect the expenses associated with the distribution plan of that class (if any), service fees attributable to that class (if any), including transfer agency fees, and any other incremental expenses of that class. Expenses of a Fund allocated to a particular class of shares will be borne on a pro rata basis by each outstanding share of that class. Applicants state that each Fund will comply with the provisions of rule 18f–3 under the Act as if it were an open-end investment company.

13. Applicants state that the Initial Fund does not currently intend to impose an EWC. However, a Fund may impose an EWC on shares submitted for repurchase that have been held less than a specified period and may waive the EWC for certain categories of shareholders or transactions to be established from time to time. Applicants state that each Fund will apply the EWC (and any waivers or scheduled variations, or elimination of the EWC) uniformly to all shareholders in a given class and consistently with the requirements of rule 22d–1 under the Act as if the Funds were open-end investment companies.

14. Each Fund operating as an interval fund pursuant to rule 23c–3 under the Act may offer its shareholders an exchange feature under which the shareholders of the Fund may, in connection with such Fund's periodic repurchase offers, exchange their shares of the Fund for shares of the same class of (i) registered open-end investment companies or (ii) other registered closed-end investment companies that comply with rule 23c–3 under the Act and continuously offer their shares at net asset value, that are in the Fund's group of investment companies (collectively, ''Other Funds''). Shares of a Fund operating pursuant to rule 23c–3 that are exchanged for shares of Other Funds will be included as part of the amount of the repurchase offer amount for such Fund as specified in rule 23c–3 under the Act. Any exchange option will comply with rule 11a–3 under the Act, as if the Fund were an open-end investment company subject to rule 11a–3. In complying with rule 11a–3, each Fund will treat an EWC as if it were a contingent deferred sales load (''CDSL'').

Applicants' Legal Analysis

Multiple Classes of Shares

1. Section 18(a)(2) of the Act provides that a closed-end investment company may not issue or sell a senior security that is a stock unless certain requirements are met. Applicants state

[3] Applicants submit that rule 23c–3 and Regulation M under the Exchange Act permit an interval fund to make repurchase offers to repurchase its shares while engaging in a continuous offering of its shares pursuant to Rule 415 under the Securities Act of 1933, as amended.

[4] Any reference to the FINRA Sales Charge Rule includes any successor or replacement to the FINRA Sales Charge Rule.

[5] *See* Shareholder Reports and Quarterly Portfolio Disclosure of Registered Management Investment Companies, Investment Company Act Release No. 26372 (Feb. 27, 2004) (adopting release) (requiring open-end investment companies to disclose fund expenses in shareholder reports); and Disclosure of Breakpoint Discounts by Mutual Funds, Investment Company Act Release No. 26464 (June 7, 2004) (adopting release) (requiring open-end investment companies to provide prospectus disclosure of certain sales load information).

[6] Fund of Funds Investments, Investment Company Act Rel. Nos. 26198 (Oct. 1, 2003) (proposing release) and 27399 (Jun. 20, 2006) (adopting release). *See also* Rules 12d1–1, *et seq.* of the Act.

that the creation of multiple classes of shares of the Funds may violate section 18(a)(2) because the Funds may not meet such requirements with respect to a class of shares that may be a senior security.

2. Section 18(c) of the Act provides, in relevant part, that a closed-end investment company may not issue or sell any senior security if, immediately thereafter, the company has outstanding more than one class of senior security. Applicants state that the creation of multiple classes of shares of the Funds may be prohibited by section 18(c), as a class may have priority over another class as to payment of dividends because shareholders of different classes would pay different fees and expenses.

3. Section 18(i) of the Act provides that each share of stock issued by a registered management investment company will be a voting stock and have equal voting rights with every other outstanding voting stock. Applicants state that multiple classes of shares of the Funds may violate section 18(i) of the Act because each class would be entitled to exclusive voting rights with respect to matters solely related to that class.

4. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction or any class or classes of persons, securities or transactions from any provision of the Act, or from any rule or regulation under the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants request an exemption under section 6(c) from sections 18(a)(2), 18(c) and 18(i) to permit the Funds to issue multiple classes of shares.

5. Applicants submit that the proposed allocation of expenses relating to distribution and voting rights among multiple classes is equitable and will not discriminate against any group or class of shareholders. Applicants submit that the proposed arrangements would permit a Fund to facilitate the distribution of its securities and provide investors with a broader choice of shareholder services. Applicants assert that the proposed closed-end investment company multiple class structure does not raise the concerns underlying section 18 of the Act to any greater degree than open-end investment companies' multiple class structures that are permitted by rule 18f–3 under the Act. Applicants state that each Fund will comply with the provisions of rule 18f–3 as if it were an open-end investment company.

Early Withdrawal Charges

1. Section 23(c) of the Act provides, in relevant part, that no registered closed-end investment company shall purchase securities of which it is the issuer, except: (a) On a securities exchange or other open market; (b) pursuant to tenders, after reasonable opportunity to submit tenders given to all holders of securities of the class to be purchased; or (c) under other circumstances as the Commission may permit by rules and regulations or orders for the protection of investors.

2. Rule 23c–3 under the Act permits an ''interval fund'' to make repurchase offers of between five and twenty-five percent of its outstanding shares at net asset value at periodic intervals pursuant to a fundamental policy of the interval fund. Rule 23c–3(b)(1) under the Act permits an interval fund to deduct from repurchase proceeds only a repurchase fee, not to exceed two percent of the proceeds, that is paid to the interval fund and is reasonably intended to compensate the fund for expenses directly related to the repurchase.

3. Section 23(c)(3) provides that the Commission may issue an order that would permit a closed-end investment company to repurchase its shares in circumstances in which the repurchase is made in a manner or on a basis that does not unfairly discriminate against any holders of the class or classes of securities to be purchased.

4. Applicants request relief under section 6(c), discussed above, and section 23(c)(3) from rule 23c–3 to the extent necessary for the Funds to impose EWCs on shares of the Funds submitted for repurchase that have been held for less than a specified period.

5. Applicants state that the EWCs they intend to impose are functionally similar to CDSLs imposed by open-end investment companies under rule 6c–10 under the Act. Rule 6c–10 permits open-end investment companies to impose CDSLs, subject to certain conditions. Applicants note that rule 6c–10 is grounded in policy considerations supporting the employment of CDSLs where there are adequate safeguards for the investor and state that the same policy considerations support imposition of EWCs in the interval fund context. In addition, applicants state that EWCs may be necessary for the distributor to recover distribution costs. Applicants represent that any EWC imposed by the Funds will comply with rule 6c–10 under the Act as if the rule were applicable to closed-end investment companies. The Funds will disclose EWCs in accordance with the requirements of Form N–1A concerning CDSLs.

Asset-based Distribution and/or Service Fees

1. Section 17(d) of the Act and rule 17d–1 under the Act prohibit an affiliated person of a registered investment company, or an affiliated person of such person, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates unless the Commission issues an order permitting the transaction. In reviewing applications submitted under section 17(d) and rule 17d–1, the Commission considers whether the participation of the investment company in a joint enterprise or joint arrangement is consistent with the provisions, policies and purposes of the Act, and the extent to which the participation is on a basis different from or less advantageous than that of other participants.

2. Rule 17d–3 under the Act provides an exemption from section 17(d) and rule 17d–1 to permit open-end investment companies to enter into distribution arrangements pursuant to rule 12b–1 under the Act. Applicants request an order under section 17(d) and rule 17d–1 under the Act to the extent necessary to permit the Fund to impose asset-based distribution and/or service fees. Applicants have agreed to comply with rules 12b–1 and 17d–3 as if those rules applied to closed-end investment companies, which they believe will resolve any concerns that might arise in connection with a Fund financing the distribution of its shares through asset-based distribution and/or service fees.

3. For the reasons stated above, applicants submit that the exemptions requested under section 6(c) are necessary and appropriate in the public interest and are consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants further submit that the relief requested pursuant to section 23(c)(3) will be consistent with the protection of investors and will insure that applicants do not unfairly discriminate against any holders of the class of securities to be purchased. Finally, applicants state that the Funds' imposition of asset-based distribution and/or service fees is consistent with the provisions, policies and purposes of the Act and does not involve participation on a basis different from or less advantageous than that of other participants.

Applicants' Condition

Applicants agree that any order granting the requested relief will be subject to the following condition:

Each Fund relying on the order will comply with the provisions of rules 6c–10, 12b–1, 17d–3, 18f–3, 22d–1, and, where applicable, 11a–3 under the Act, as amended from time to time, as if those rules applied to closed-end management investment companies, and will comply with the FINRA Sales Charge Rule, as amended from time to time, as if that rule applied to all closed-end management investment companies.

For the Commission, by the Division of Investment Management, under delegated authority.

Eduardo A. Aleman,

Assistant Secretary.

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BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84403; File No. SR–CboeEDGX–2018–042]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Introduce Equities Purge Ports To (1) Establish Purge Ports for Equities Trading and Amend the Interpretations and Policies to Rule 11.10, Order Execution, To Reflect the Proposed Purge Ports, and (2) Modify the Fee Schedule Applicable To the Exchange's Equities Platform ("EDGX Equities") to Identify and To Set Fees for Purge Ports

October 11, 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 September 28, 2018, Cboe EDGX Exchange, Inc. (''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to (1) establish Purge Ports for equities trading and amend the Interpretations and Policies to Rule 11.10, Order Execution, to reflect the proposed Purge Ports, and (2) modify the fee schedule applicable to the Exchange's equities platform (''EDGX Equities'') to identify and to set fees for Purge Ports. The Exchange has designated this proposal as non-controversial and provided the Commission with the notice required by Rule 19b–4(f)(6)(iii) under the Act.[5]

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 purpose of the proposed rule change is to offer Users [6] an additional tool to manage risk and exercise additional control over their quotations in equity securities (*i.e.,* ''Purge Ports''). Specifically, the Exchange proposes to: (1) Establish Purge Ports for equities trading and amend the Interpretations and Policies to Rule 11.10, Order Execution, to reflect the proposed Purge Ports, and (2) modify the fee schedule applicable to EDGX Equities to identify and to set fees for Purge Ports.

Purge Ports are already available on the Exchange's affiliated options markets—*i.e.,* the Exchange's options trading platform (''EDGX Options''), the options trading platform of Cboe BZX Exchange, Inc. (''BZX Options''), and Cboe C2 Exchange, Inc. (''C2'').[7] Based on the successful experience with Purge Ports for options, and in response to demand for similar functionality for equities trading, the Exchange has determined to offer Purge Ports on EDGX Equities. The Exchange believes that the proposed Purge Port functionality will provide an effective tool for Users to manage their risk associated with equities trading.

Background

A logical port represents a port established by the Exchange within the Exchange's system for trading and billing purposes. Each logical port established is specific to a Member or non-Member and grants that Member or non-Member the ability to accomplish a specific function, such as order entry, order cancellation, or data receipt. In addition, logical ports enable Users to access information such as execution reports, execution report messages, auction notifications, and administrative data through a single feed.

Purge Ports

The Exchange now proposes to amend the Interpretations and Policies to Rule 11.10, Order Execution, to identify Purge Ports, a new type of logical port that would enable Users to cancel all open orders, or a subset thereof, across multiple logical ports through a single cancel message. The Exchange also proposes to amend the EDGX Equities fee schedule to adopt fees for Purge Ports.

The proposed ports are designed to assist Users, including Market Makers,[8] in the management of, and risk control over, their quotes, particularly if the firm is quoting a large number of securities. For example, if a Market Maker detects market indications that may influence the direction or bias of his or her quotes, the Market Maker may use the proposed Purge Port(s) to reduce uncertainty and to manage risk by purging all quotes in a number of securities. This would allow the firm to seamlessly avoid unintended executions, while continuing to evaluate the direction of the market. While Purge Ports will be available to all Users, the

[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).

[5] 17 CFR 240.19b–4(f)(6)(iii).

[6] A ''User'' is any Member or Sponsored Participant who is authorized to obtain access to the System pursuant to Rule 11.3. *See* Rule 1.5(ee).

[7] *See* Securities Exchange Act Release Nos. 79957 (February 3, 2017), 82 FR 10070 (February 9, 2017) (SR–BatsEDGX–2017–07); 79956 (February 3, 2017), 82 FR 10102 (February 9, 2017) (SR–BatsBZX–2017–05); 83201 (May 9, 2018), 83 FR 22546 (May 15, 2018) (SR–C2–2018–006).

[8] A ''Market Maker'' is a Member that acts as a Market Maker pursuant to Chapter XI. *See* Rule 1.5(l).

Exchange anticipates they will be used primarily by Market Makers or firms that conduct similar business activity and are therefore exposed to a large amount of risk across a number securities.

Users may currently cancel orders through their existing logical ports. In addition, the Exchange offers risk functionality pursuant to Interpretation and Policies .01 to Rule 11.10 that permits Users to block new orders from being submitted, to cancel all open orders, or to both block new orders and cancel all open orders. In addition to the current risk functionality, which is being retained, the Exchange now proposes to expand the ability of Users to cancel orders through the proposed Purge Ports, which would enable them to cancel all open orders, or a subset thereof, across multiple logical ports through a single cancel message. The mass cancel request may be limited to a subset of orders by identifying the range of orders to be purged. Users may also request via a Purge Port that the Exchange block all or a subset of new orders submitted, and the block will remain in effect until the User requests that the Exchange remove the block.

The Exchange proposes to amend the Interpretations and Policies to Rule 11.10, Order Execution, to reflect the proposed Purge Port functionality. As described above, Interpretation and Policies .01 to Rule 11.10 currently states that the Exchange offers risk functionality that permits Users to block new orders submitted, to cancel all open orders, or to both block new orders and cancel all open orders. The Exchange proposes to move this language to Interpretations and Policies .02(a) to Rule 11.10,[9] and add additional language to describe the flexibility provided using the proposed Purge Ports. Specifically, as proposed, Interpretations and Policies .02(b) to Rule 11.10 will state that a ''Purge Port'' is a dedicated port that permits a User to simultaneously cancel all or a subset of its orders in one or more symbols across multiple logical ports by requesting the Exchange to effect such cancellation. The proposed rule will also provide that a User initiating such a request may also request that the Exchange block all or a subset of its new inbound orders in one or more symbols across multiple logical ports. The block will remain in effect until the User requests the Exchange remove the block.

In addition, the Exchange proposes to modify the Logical Port Fees section of the EDGX Equities fee schedule to adopt a fee for Purge Ports of $650 per port/per month, which would compensate the Exchange for the investment that it has made in making Purge Ports available to firms that believe they would benefit from a dedicated purge mechanism. Only firms that request Purge Ports would be subject to the proposed fees, and other firms can continue to operate in exactly the same manner as they do today without dedicated Purge Ports.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[10] Specifically, the proposed rule change is consistent with Sections 6(b)(4) and 6(b)(5) of the Act,[11] because it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities, and is designed 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 would promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market because offering Users, including Market Makers, designated Purge Ports would enhance their ability to manage quotes, quote traffic, and their quoting obligations,[12] which would, in turn, improve their risk controls to the benefit of all market participants. The Exchange believes that the Purge Ports would foster cooperation and coordination with persons engaged in facilitating transactions in securities because designating Purge Ports for purge messages (including blocking subsequent order entry) may encourage better use of such dedicated ports. This may, concurrent with the logical ports that carry quote and other information necessary for market making activities, enable more efficient, as well as fair and reasonable, use of Market Makers' resources. Although dedicated Purge Ports are a new innovation for equities exchanges, similar connectivity and functionality is offered by options exchanges, including the Exchange's own affiliated options exchanges.[13] The Exchange believes that proper risk management, including the ability to efficiently cancel multiple orders at once, is similarly important to firms that trade in the equities market, including Market Makers that have heightened quoting obligations that are not applicable to other market participants.

The proposed rule change will not relieve Market Makers of their continuous quoting obligations under Rule 11.20(d) or firm quote obligations under Regulation NMS Rule 602.[14] Specifically, any interest that is executable against a User's or Market Maker's quotes and orders that is received by the Exchange prior to the time of the removal of quotes request will automatically execute at that price, up to the quote's size. Market Makers that purge their quotes will not be relieved of the obligation to provide continuous two-sided quotes on a daily basis, nor will it prohibit the Exchange from taking disciplinary action against a Market Maker for failing to meet their continuous quoting obligation each trading day.

Dedicated Purge Ports, which were originally introduced for options trading, are a new feature in the equities market, and the Exchange is the first equities exchange to offer this functionality to Users. The Exchange has incurred additional infrastructure and technology costs in offering the proposed Purge Ports, including costs associated with the purchase of new hardware to support these dedicated ports, and software development, testing, and certification work associated with the risk management functionality made available through such ports. The Exchange also has continuing costs associated with maintenance and monitoring of the proposed ports. The Exchange believes that its proposed fees should facilitate the ability of the Exchange to recoup some costs associated with Purge Ports as well as provide, maintain, and improve Purge Ports.[15] The proposed fees therefore directly support the

[9] The Exchange also proposes to make a non-substantive change that deletes the introductory clause of this sentence.

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(4) and (5).

[12] *See* Rule 11.20(d).

[13] *See* supra note 8. *See also e.g.* Nasdaq ISE, LLC, Schedule of Fees, V. Connectivity Fees, C. Ports and Other Services, SQF Purge Port Fee.

[14] 17 CFR 242.602.

[15] Purge Ports will be fee liable on a monthly basis (and not only when such ports are active), which will help the Exchange to recoup the cost of these ports.

introduction of new and innovative risk management features to the market.

The Exchange believes the proposed fee for Purge Ports is equitable and reasonable. The Exchange currently charges $550 per port/per month for logical ports.[16] The Exchange believes it is equitable and reasonable to charge $650 per month for the proposed Purge Ports as such ports were specially developed to allow for the sending of a single message to cancel multiple orders, thereby assisting firms in effectively managing risk. In addition, Purge Port requests may cancel orders submitted over numerous ports and contain added functionality to purge only a subset of these orders. Effective risk management is important both for individual market participants that choose to utilize risk features provided by the Exchange, as well as for the market in general. As a result, the Exchange believes that it is appropriate to charge fees that compensate for the development of such functionality as doing so aids in the maintenance of a fair and orderly market.

The Exchange also believes that offering such functionality at the Exchange level promotes robust risk management across the industry, and thereby facilitates investor protection. Some market participants, and, in particular, the larger firms could build similar risk functionality on their trading systems that permit the flexible cancellation of orders entered on the Exchange. Offering Exchange level protections ensures that such functionality is widely available to all firms, including smaller firms that may otherwise not be willing to incur the costs and development work necessary to support their own customized mass cancel functionality.

Although the Exchange is the first exchange to develop and offer dedicated Purge Ports for equities trading, the proposed rate is lower than that charged by options exchanges for similar functionality, including the fees charged by the Exchange's affiliated options exchanges for Options Purge Ports, which are billed at a rate of $750 per month, and fees charged by unaffiliated options exchanges, such as ISE, which charges a fee of $1,100 per month for SQF Purge Ports. The Exchange operates in a highly competitive market in which exchanges offer connectivity and related services as a means to facilitate the trading activities of Members and other participants. As the proposed Purge Ports provide voluntary risk management functionality, excessive fees would simply serve to reduce demand for this optional product.

The Exchange also believes that the proposed amendments to its fee schedule are not unfairly discriminatory because they will apply uniformly to all Members that choose to use dedicated Purge Ports. The proposed Purge Ports are completely voluntary and, as they relate solely to optional risk management functionality, no Member is required or under any regulatory obligation to utilize them. The Exchange believes that adopting separate fees for these ports ensures that the associated costs are borne exclusively by Members that determine to use them based on their business needs, including Market Makers or similarly situated market participants that enter orders simultaneously in a number of securities. All Members that voluntarily select this service option will be charged the same amount for the same services. All Members have the option to select any connectivity option, and there is no differentiation among Members with regard to the fees charged for the services offered by the Exchange.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange believes the proposed rule change will enhance competition because it will enable the Exchange to innovate and offer similar equities Purge Port functionality to that offered on options markets today, at a competitive price.[17] The proposed Purge Ports are completely voluntary and will be made available to all Members on an equal basis. While the Exchange believes that the proposed Purge Ports provide a valuable service, Members can choose to purchase, or not purchase, these ports based on their business needs. No Member is required or under any regulatory obligation to utilize Purge Ports. Furthermore, fees for Purge Ports, and connectivity in general, are constrained by the robust competition for order flow among exchanges and non-exchange markets. Members may opt to disfavor the Exchange's pricing if they believe that alternatives offer them better value. As a result, excessive fees for connectivity, including Purge Port fees, would serve to impair the Exchange's ability to compete for order flow rather than burdening competition. Accordingly, the Exchange believes that the proposed rule change is designed to offer appropriate risk management functionality to firms that trade on the Exchange without imposing an unnecessary or inappropriate burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No comments were solicited or received 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)(iii) of the Act[18] and subparagraph (f)(6) of Rule 19b–4 thereunder.[19]

A proposed rule change filed under Rule 19b–4(f)(6)[20] normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b–4(f)(6)(iii)[21] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become effective and operative immediately upon filing. The Exchange noted that its affiliated options exchanges provide Purge Ports and that they have been successful for options. The Exchange noted that there is a demand for Purge Ports for equities and that it believes that the Purge Ports will provide an effective risk management tool for Users trading equities. The Commission believes that Purge Ports may be a helpful tool for managing the risk associated with trading equities, and notes that this can be important both for individual market participants and the market in general.

[16] The fee for Multicast PITCH Spin Server ports provides access to a set of primary ports (A or C feed) and the fee for Multicast PITCH GRP Ports provides access to a primary port (A or C feed).

[17] *See* supra note 14.

[18] 15 U.S.C. 78s(b)(3)(A)(iii).

[19] 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.

[20] 17 CFR 240.19b–4(f)(6).

[21] 17 CFR 240.19b–4(f)(6)(iii).

Accordingly, the Commission believes that permitting this feature to be operative upon filing is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.[22]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeEDGX–2018–042 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–CboeEDGX–2018–042. 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–CboeEDGX–2018–042 and should be submitted on or before November 7, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Eduardo A. Aleman,

Assistant Secretary.

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BILLING CODE 8011–01–P

[22] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[23] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Request for Comments on Small Business Administration Enterprise Learning Agenda

AGENCY: Small Business Administration (SBA).

ACTION: Notice and request for comment.

SUMMARY: The Small Business Administration (SBA) is requesting comments on its Enterprise Learning Agenda (ELA) to inform an update for FY 2019. The FY 2018 ELA is available on SBA's website at *https://www.sba.gov/sites/default/files/aboutsbaarticle/FY_2018_Enterprise_Learning_Agenda_OMB_SBA_Final_2_08_2018-Final_1.pdf.*

DATES: Comments must be received on or before Friday, November 16, 2017 to be assured for consideration.

ADDRESSES: You may submit comments by the following methods (Please send comments by one method only):

Email: Address to *Performance.Management@sba.gov.* Include ''Comments on SBA ELA'' in the email subject line.

Mail: Address to Jason Bossie, Director, Office of Performance Management, U.S. Small Business Administration, Office of Performance Management and the Chief Financial Officer, 409 3rd St. SW, Suite 6000, Washington, DC 20416.

Hand/Delivery/Courier: Same as mail address.

FOR FURTHER INFORMATION CONTACT: Brittany Borg, Lead Program Evaluator, Small Business Administration at *brittany.borg@sba.gov.*

SUPPLEMENTARY INFORMATION: The SBA has developed an Enterprise Learning Agenda (ELA) to help program managers continue to build and use evidence and to foster an environment of continuous learning. The ELA is a five-year plan that identifies priorities based on SBA's four strategic goals in the *FY 2018–2022 Strategic Plan* where evaluations could provide insights about program effectiveness, progress toward outcomes, or test pilot initiatives. The Small Business Administration *FY 2018 Enterprise Learning Agenda* is provided for public input to ensure that the public and stakeholders are provided an opportunity to comment. Comments received on the *FY 2018 Enterprise Learning Agenda* will be considered during the creation of the *FY 2019 Enterprise Learning Agenda* to be published in February 2019.

Tim Gribben,

Chief Financial Officer and Associate Administrator for Performance Management.

[FR Doc. 2018–22643 Filed 10–16–18; 8:45 am]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15714 and #15715; Connecticut Disaster Number CT–00042]

Administrative Declaration of a Disaster for the State of Connecticut

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Connecticut dated 10/09/2018.

Incident: Severe Storms, Tornadoes and Straight-Line Winds.

Incident Period: 05/15/2018.

DATES: Issued on 10/09/2018.

Physical Loan Application Deadline Date: 12/10/2018.

Economic Injury (EIDL) Loan Application Deadline Date: 07/09/2019.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance,

U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: New Haven.

Contiguous Counties: Connecticut: Fairfield, Hartford, Litchfield, Middlesex.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere ..	3.875
Homeowners without Credit Available Elsewhere	1.938
Businesses with Credit Available Elsewhere ..	7.220
Businesses without Credit Available Elsewhere	3.610
Non-Profit Organizations with Credit Available Elsewhere	2.500
Non-Profit Organizations without Credit Available Elsewhere	2.500
For Economic Injury:	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	3.610
Non-Profit Organizations without Credit Available Elsewhere	2.500

The number assigned to this disaster for physical damage is 15714 C and for economic injury is 15715 0.

The State which received an EIDL Declaration # is Connecticut.

(Catalog of Federal Domestic Assistance Number 59008)

Dated: October 9, 2018.

Linda E. McMahon,

Administrator.

[FR Doc. 2018–22639 Filed 10–16–18; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15720 and #15721; Pennsylvania Disaster Number PA–00093]

Administrative Declaration of a Disaster for the Commonwealth of Pennsylvania

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the Commonwealth of Pennsylvania dated 10/09/2018.

Incident: Flooding.

Incident Period: 09/09/2018 through 09/10/2018.

DATES: Issued on 10/09/2018.

Physical Loan Application Deadline Date: 12/10/2018.

Economic Injury (EIDL) Loan Application Deadline Date: 07/09/2019.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Westmoreland

Contiguous Counties:

Pennsylvania: Allegheny, Armstrong, Cambria, Fayette, Indiana, Somerset, Washington.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	4.000
Homeowners without Credit Available Elsewhere	2.000
Businesses with Credit Available Elsewhere	7.350
Businesses without Credit Available Elsewhere	3.675
Non-Profit Organizations with Credit Available Elsewhere ...	2.500
Non-Profit Organizations without Credit Available Elsewhere	2.500
For Economic Injury:	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	3.675
Non-Profit Organizations without Credit Available Elsewhere	2.500

The number assigned to this disaster for physical damage is 15720 6 and for economic injury is 15721 0.

The State which received an EIDL Declaration # is Pennsylvania.

(Catalog of Federal Domestic Assistance Number 59008)

Dated: October 9, 2018

Linda E. McMahon,

Administrator.

[FR Doc. 2018–22640 Filed 10–16–18; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15718 and #15719; New York Disaster Number NY–00186]

Administrative Declaration of a Disaster for the State of New York

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of New York dated 10/09/2018.

Incident: Severe Storms and Flooding.

Incident Period: 08/13/2018 through 08/14/2018.

DATES: Issued on 10/09/2018.

Physical Loan Application Deadline Date: 12/10/2018.

Economic Injury (EIDL) Loan Application Deadline Date: 07/09/2019.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Broome, Seneca.

Contiguous Counties:

New York: Cayuga, Chenango, Cortland, Delaware, Ontario, Schuyler, Tioga, Tompkins, Wayne, Yates.

Pennsylvania: Susquehanna, Wayne.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	4.000
Homeowners without Credit Available Elsewhere	2.000
Businesses with Credit Available Elsewhere	7.350

	Percent
Businesses without Credit Available Elsewhere	3.675
Non-Profit Organizations with Credit Available Elsewhere	2.500
Non-Profit Organizations without Credit Available Elsewhere	2.500
For Economic Injury:	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	3.675
Non-Profit Organizations without Credit Available Elsewhere	2.500

The number assigned to this disaster for physical damage is 15718 6 and for economic injury is 15719 0.

The States which received an EIDL Declaration # are New York, Pennsylvania.

(Catalog of Federal Domestic Assistance Number 59008)

Dated: October 9, 2018.

Linda E. McMahon,

Administrator.

[FR Doc. 2018–22638 Filed 10–16–18; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice: 10586]

Cultural Property Advisory Committee; Notice of Meeting

ACTION: Notice of closed meeting.

Pursuant to the Convention on Cultural Property Implementation Act (19 U.S.C. 2601 *et seq.*) (''the Act''), the Assistant Secretary of State for Educational and Cultural Affairs calls a meeting of the Cultural Property Advisory Committee (''the Committee'') on November 6, 2018. This meeting will be closed to the public pursuant to 5 U.S.C. 552b(c)(9)(B) and 19 U.S.C. 2605.

Meeting Agenda: The Committee will undertake a continuing review of the effectiveness of cultural property agreements and emergency actions currently in force.

FOR FURTHER INFORMATION CONTACT: For general questions concerning the meeting, contact Andrew Cohen, Bureau of Educational and Cultural Affairs—Cultural Heritage Center by phone, (202) 632–6301, or email, *culprop@state.gov.*

Marie Therese Porter Royce,

Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2018–22641 Filed 10–16–18; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. 2018–74]

Petition for Exemption; Summary of Petition Received; The Boeing Company

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

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before October 22, 2018.

ADDRESSES: Send comments identified by docket number FAA–2018–0843 using any of the following methods:

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

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Brent Hart, (202) 267–4034, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on October 11, 2018.

Lirio Liu,

Executive Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2018–0843.

Petitioner: The Boeing Company.

Section(s) of 14 CFR Affected: 91.9, 133.19(a)(1) and (3) and 133.43(a) and (b).

Description of Relief Sought: The Boeing Company requests regulatory relief to allow for the training of Indian Air Force (IAF) pilots, who do not hold U.S. Airmen certificates. Additionally, The Boeing Company is seeking to train these pilots in rotorcraft external load operations with a helicopter that is not type-certificated.

[FR Doc. 2018–22662 Filed 10–16–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance; Docket Number FRA–2018–0076

Under part 211 of Title 49 of the Code of Federal Regulations (CFR), this provides the public notice that by a document dated September 7, 2018, the Canadian National Railway (CN) and its operating subsidiaries petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 220. FRA assigned the petition Docket Number FRA–2018–0076.

Specifically, CN seeks a waiver of 49 CFR 220.307, *Use of railroad-supplied electronic devices,* and 49 CFR 220.305, *Use of personal electronic devices,* to permit its employees to use certain fitness trackers while conducting their daily duties. The request pertains to the railroad-supplied (or personally purchased but railroad-approved) Virgin Pulse Max Pedometer and/or Virgin Pulse GoZone Pedometer (or later models). CN states the risk of distraction

is minimized based on the devices' limited functionality and they are an aspect of an important well-being program.

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 Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Ave. 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 party desires 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 December 3, 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. 2018–22563 Filed 10–16–18; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance; Docket Number FRA–2018–0072

Under part 211 of Title 49 Code of Federal Regulations (CFR), this provides the public notice that on August 21, 2018, the North County Transit District (NCTD), petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 240, Q*ualification and Certification of Locomotive Engineers,* and part 242, *Qualification and Certification of Conductors.* FRA assigned the petition Docket Number FRA–2018–0072.

The relief is requested as part of NCTD's proposed implementation of and participation in FRA's Confidential Close Call Reporting System (C^3RS) pilot project. NCTD seeks to shield reporting employees and the railroad from mandatory punitive sanctions that would otherwise arise as provided in 49 CFR 240.117(e)(1)–(4); 240.305(a)(l)–(4) and (a)(6); 240.307; 242.403(b), (c), (e)(l)–(4), (e)(6)–(11), (f)(l)–(2) and 242.407. The C^3RS pilot project encourages certified operating crew members to report close calls and protect the employees and the railroad from discipline or sanctions arising from the incidents reported per the C^3RS Implementing Memorandum of Understanding.

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 party desires an opportunity for oral comment, 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 1and 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 December 3, 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. 2018–22562 Filed 10–16–18; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket No. FTA–2017–0010]

Response to Comments on National Transit Database Reporting Changes and Clarifications

AGENCY: Federal Transit Administration, DOT.

ACTION: Final response to comments.

SUMMARY: This notice responds to comments received on proposed changes and clarifications to the National Transit Database (NTD) reporting requirements published in the **Federal Register** on October 27, 2017 (ID: FTA–2017–0010).

DATES: All proposed changes and clarifications will be effective for NTD report year 2018.

FOR FURTHER INFORMATION CONTACT: Maggie Schilling, National Transit Database Program Manager, FTA Office of Budget and Policy, (202) 366–2054 or *maggie.schilling@dot.gov.*

SUPPLEMENTARY INFORMATION:

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A. Background and Overview

The Federal Transit Administration (FTA) published a notice in the **Federal Register** on October 27, 2017 seeking public comment on several NTD reporting changes and clarifications. The comment period closed on December 26, 2017. FTA intended to implement the proposed changes in report year 2017; however, due to the timing of the notice's publication, FTA will implement all changes finalized in this **Federal Register** notice in report year 2018.

Following is a summary of the comments received with FTA responses.

B. Clarifications on Reporting Requirements Related to the Transit Asset Management Program Rule (Published July 2016)

a. Definition of Capital Responsibility

FTA received three comments on the proposed definition of capital responsibility. One agency requested a clarification on direct capital responsibility as it relates to transit agencies operating as a tenant railroad on FRA-regulated Class 1 infrastructure. Specifically, they asked if the railroad co-funds the replacement of guideway assets, does that denote direct capital responsibility? The agency stated that the information necessary to calculate the track performance metric (slow zones) may not be available to the tenant railroad. Finally, the agency asked FTA to consider exempting FRA-regulated Class 1 infrastructure from this definition.

A second agency requested that FTA provide a specific definition of *major repair* and additional clarification on whether subrecipients who ''lease or rent a facility for operations or an office space in a larger building for administration'' should include language in the lease agreement specifying who has capital responsibility.

Finally, an agency requested clarification on whether both a 'capital line' item expense and management oversight of an asset are required to meet the reporting threshold or if, as stated in the notice, this was intended to be an ''or'' statement.

FTA Response: If an agency is jointly responsible for funding the replacement of guideway assets this does denote direct capital responsibility for the purposes of the Transit Asset Management rule and NTD reporting requirements. Additionally, FTA does not intend to exempt a tenant railroad operating on FRA-regulated Class 1 infrastructure from the requirements of the Transit Asset Management rule. Successful transit asset management requires a comprehensive assessment of all the assets necessary to deliver service. Although a transit system may not currently have capital responsibility for an asset, if that asset is essential to the delivery of transit service, then that asset may well become part of a transit system's capital needs in the future. Finally, FTA believes that it is reasonable to expect that a tenant railroad will be provided with enough information to calculate the track performance metric (slow zones) from the host railroad in the normal course of operations.

The current guidance on calculating the track performance metric requires the agency to record the total amount of track under performance restriction at 9 a.m. on the first Wednesday of each month. Daily slow order information provided to operations staff to alert them of service changes should provide the information necessary to calculate the performance metric.

FTA does not currently have a published definition of *major repair* but clarifies that such a repair would be one with a useful life of more than one year. Additionally, FTA does not require an agency to include specific language in a lease or agreement to specify which entity has capital replacement responsibility.

Finally, FTA clarifies that the definition of *capital responsibility* did not intend that both a ''capital line'' item expense and management oversight of an asset are required to meet the reporting threshold. As stated in the notice, this was intended to be an ''or'' statement.

FTA will implement the definition of *capital responsibility* as stated in this notice in the FY 2018 NTD Policy Manual.

b. Clarification on the Reporting Deadlines for New Assets

FTA did not receive any comments on the clarification that an agency is required to report a new asset to the NTD asset inventory in the fiscal year that the agency begins using the asset for public transportation service. FTA will include this guidance as proposed in the 2018 NTD Reporting Policy Manual.

c. Addition of Non-Revenue Service/ Yard Track and Total Track Without Capital Replacement Responsibility Category

FTA received four comments related to the inclusion of two additional track types to the asset inventory module: (1) Non-revenue service/yard track and, (2) total track without capital responsibility. One commenter expressed their support of the addition of total non-revenue/yard track and total track without capital replacement responsibility.

Although FTA did not specifically request comment on the established track categories of ''total tangent track'' and ''total curved track'' in this notice, three commenters stated that these two categories should be combined. One of the commenters believed that separating track into tangent and curved ''adds cost to data collection and reporting without adding value to transit agencies or the FTA''. Two commenters further requested that FTA clarify the degree of curvature necessary to differentiate between tangent and curved track. Finally, two commenters recommended three new track categories: (1) Mainline track work; (2) special track work (to include guarded curves); and (3) yard/ secondary track work.

FTA Response: FTA's Transit Economic Requirement Model (TERM) used to estimate the transit industry's state of good repair backlog, which is

reported to Congress biennially, currently includes different useful life assumptions for tangent vs. curved track. FTA has included these track categories for public comment in two past **Federal Register** notices (ID: FTA–2014–0006–0001 and ID: FTA–2015–0029–0001) and has finalized these categories during that notice and comment process. FTA appreciates the additional industry feedback on these categories but does not intend to make any changes beyond the additional categories proposed in this notice at this time. As the feedback received on the addition of non-revenue service/yard track and total track without capital replacement responsibility category was supportive, FTA will proceed with adding these categories to the database.

FTA will further consider the request for clarification on the degree of curvature necessary for track to be considered curved vs. tangent. Additional guidance will be included in a future notice.

In addition to providing comment on the track categories, one commenter included recommendations for adjusting the guideway categories collected in the NTD asset inventory. The guideway categories were included in two past **Federal Register** notices for public comment (ID: FTA–2014–0006–0001 and ID: FTA–2015–0029–0001). Based on comments received, the FTA finalized these categories and published them in the **Federal Register** on July 26, 2016 (ID: FTA–2014–0006–0083). As these comments are outside of the scope of this notice, FTA is not providing response to these suggestions.

C. Additional Guidance on Reportable Safety Events

FTA received two comments related to the additional guidance on reportable safety events. One agency expressed support for the additional guidance. One agency requested a clarification on whether a transit revenue vehicle needs to be ''in service'' when an incident occurs to be considered a reportable safety event.

FTA Response: The definition published in the NTD glossary defines a ''revenue vehicle'' as ''the floating and rolling stock used to provide revenue service for passengers''. It does not specify that a ''revenue vehicle'' is only considered such when it is in active revenue service. The FTA further clarifies that any event meeting the thresholds for a reportable event and involving a transit revenue vehicle, regardless of whether that vehicle is in revenue service at the time of the event, is reportable to the NTD safety module.

FTA will include the additional guidance as published in the FY2018 Safety Report Manual.

D. Clarifications on Reporting Requirements for Job Access Reverse Commuter (JARC) Fund Recipients

FTA Response: FTA did not receive any comments on this clarification. FTA will proceed with the proposal to exempt from NTD reporting any subrecipient that only receives FTA money for Urbanized Area (5307) or Rural Area (5311) funded JARC projects that are not public transportation projects, and does not have any transit operating or capital expenses from any other 5307 or 5311 FTA funding sources.

E. Guidance on Distinguishing Between Commuter and Intercity Service

FTA received four comments related to the guidance on distinguishing between commuter and intercity service. One commenter stated that the clarification between commuter and intercity service ''might imply that all public transportation and intercity transportation are mutually exclusive'' and that ''such a statement would be contrary to the plain wording of the statutory definition of *public transportation.*'' One commenter requested a clarification of the term ''qualified statistician.'' They specifically asked if a general consulting firm would be able to complete the work of a qualified statistician. Two commenters stated that requiring a survey of service to establish the percentage of riders taking same day trips when FTA deems it necessary seems ''arbitrary.'' They requested that FTA set a clear threshold for when a survey would be required. One commenter further believes that the survey seemed overly burdensome.

FTA Response: FTA does not have a published definition of ''qualified statistician'' but clarifies that a general consulting firm or an individual with education or training in mathematics, statistics, or a related quantitative field would be able to complete the work of a qualified statistician.

FTA did not intend to imply that intercity service and public transportation are mutually exclusive in their entirety. In some cases, commuters may ride intercity service to reach their destination, and in some cases intercity passengers may ride a commuter service to reach their destination. As a clarification, this notice and the previous notice referenced (FTA–2016–0006) are distinguishing between commuter and intercity service for the purpose of allocating service information to an urbanized area in the NTD and for inclusion in the Urbanized Area Formula program.

Intercity service that meets the statutory definition of public transportation at 49 U.S.C 5302 is reportable to the NTD as public transportation service but only the portion that is located within the boundaries of an urbanized area may be attributed to that urbanized area. Intercity service located outside of the urbanized area would be attributable at a rate of 27 percent per 49 U.S.C. 5336. In contrast, service meeting the definition of commuter service would be fully attributable to the urbanized area regardless of its location.

This notice clarifies that the existing definition of commuter service applies to ferry boats and that ferry service is only fully attributable to an urbanized area if at least 50 percent of passengers are making a return trip on the same day. If the ferry does not meet this threshold, it would be considered intercity service and service located outside of the urbanized area would be attributable at a rate of 27 percent per 49 U.S.C. 5336.

Current FTA policy requires a passenger survey of new commuter service to the NTD to establish that it meets the criteria for reportable commuter rail or bus service. This notice simply extends this requirement to ferry service. Further, FTA recognizes that this survey is both time consuming and costly to an agency. This notice attempted to reduce the burden on agencies by presuming that those services with 100 percent one-way trip times of 90 minutes or less are commuter services, without requiring a passenger survey. The notice did preserve FTA's discretion to survey services outside of this boundary or with characteristics suggesting that they may not meet the definition of commuter service. Those services would still need to complete a survey to establish that they meet the threshold of commuter service.

In response to the request for a more definitive threshold, FTA clarifies that services with 100 percent one-way trip times of 30 minutes or less will not require a survey to establish the service as commuter. FTA will continue to presume that services with 100 percent one-way trip times of 90 minutes or less are commuter services, while maintaining discretion to request a survey of those with service characteristics suggesting that they may not meet the definition of commuter service.

FTA will include these clarifications as presented in the notice and this

response in the 2018 NTD Policy Manual.

F. Change to Reporting Requirements for Non-Rail For-Profit Providers of Public Transportation

FTA received two comments on the proposed change to reporting requirements for non-rail for-profit providers of public transportation. One agency stated that the ''safety of passengers and good stewardship of any associate tax dollars is a higher priority'' than protecting competitive advantage of for-profit providers. A second agency strongly opposed the change and stated that FTA failed to ''provide any evidence'' of the assertion that reporting as a full reporter may compromise a company's ability to successfully compete for business. They further expressed concern that most of the identified providers are in the New York-Newark, NY-NJ-CT urbanized area and believed this change would disproportionately reduce the Urbanized Area Formula apportionment for New York. They ''urged FTA to eliminate this proposal from further consideration'' or issue the proposal for public comment along with additional detail for the public to review.

FTA Response: FTA agrees that the safety of passengers and the good stewardship of public tax dollars are the highest priorities. Although, FTA does not believe that this proposal represents any risk to the safety of transit passengers, FTA is sensitive to the concerns expressed that this proposal could primarily impact the New York-Newark, NY-NJ-CT urbanized area. FTA is withdrawing this proposed change. Reporting requirements will remain the same for non-rail, for-profit providers of public transportation.

G. Clarification of Mechanical Failure Definitions

FTA received five comments on the clarification of mechanical failure definitions and request for feedback on potential definition changes. Two commenters support the proposed definition change. One commenter requested clarification on ''vandalism.'' Specifically, they asked FTA to clarify whether a door defect caused by a customer holding a door should be considered vandalism under the proposed definition.

FTA Response: FTA clarifies that a door defect caused by normal interaction with customers boarding and alighting the vehicle, including attempting to hold a door to allow for normal boarding and alighting would not be considered ''vandalism.'' FTA's use of the word vandalism was the common definition of willful or malicious destruction or defacement of public or private property.

FTA will implement the proposed definition adjustments. These changes will be reflected in the FY2018 NTD Policy Manual and NTD Glossary.

In addition to clarifications to the mechanical failure definitions, FTA asked for feedback on current utility of the *major mechanical failure* and *other mechanical failure* metrics. FTA also offered two scenarios for adjusting these metrics and requested stakeholder feedback on these scenarios. FTA provides a summary of the feedback received below for stakeholder awareness. As the comments received did not indicate a consensus among stakeholders on the best way to improve the reporting of mechanical failures, FTA is not proposing to make any changes to reporting at this time.

As stated in the original notice, FTA is not recommending any further changes to the *major mechanical failure* and *other mechanical failure* definitions at this time. FTA will use the feedback outlined below to inform any future changes to these data points.

One commenter recommended adjusting the metric to track mean distance between delays to better align with industry practice and suggested changing the proposed definition of ''other mechanical system failures'' to include ''all failures.''

Another commenter states that collecting major mechanical system failures by fleet rather than mode ''would not be an issue'' but this has limited utility to an agency because they measure reliability using a different metric. The commenter suggests changing the proposed definition of ''other mechanical system failures'' to include ''all failures''.

Two commenters did not support discontinuing reporting of other mechanical system failures. One stated that FTA should continue to collect it ''with the intent to provide value to stakeholders'' unless the financial burden is excessive. The second stated that discontinuing the reporting of other mechanical system failures would not reduce agency burden to maintain and analyze failure data.

One commenter stated that changing the reporting threshold to failures requiring a work order would be inconsistent among agencies and would not make reporting more consistent.

One commenter recommended that FTA discontinue the reporting of ''partially cancelled trains'' as this may be a source of inconsistent reporting.

A final commenter expressed concern that collecting major mechanical system failure by fleet rather than by mode may increase the reporting burden. They requested that FTA clearly articulate how the more granular data set will be used and allow the public to weigh if the utility of the data set balances the potential cost and burden before making any changes to the current metrics.

K. Jane Williams,

Acting Administrator.

[FR Doc. 2018–22528 Filed 10–16–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Multiple IRS Information Collection Requests

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before November 16, 2018 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW, Suite 8142, Washington, DC 20220, or email at *PRA@treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained from Jennifer Leonard by emailing *PRA@treasury.gov,* calling (202) 622–0489, or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Internal Revenue Service (IRS)

Title: Return by a U.S. Transferor of Property to a Foreign Corporation.

OMB Control Number: 1545–0026.

Type of Review: Revision of a currently approved collection.

Abstract: Form 926 is filed by any U.S. person who transfers certain tangible or intangible property to a foreign corporation to report information required by section 6038B.

Form: 926.

Affected Public: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 28,608.

Title: Form 1099–R—Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.

OMB Control Number: 1545–0110.

Type of Review: Revision of a currently approved collection.

Abstract: The Form 1099–DIV is used by the Service to insure that dividends are properly reported as required by Code section 6042 and that liquidation distributions are correctly reported as required by Code section 6043, and to determine whether payees are correctly reporting their income.

Form: 1099–DIV.

Affected Public: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 32,119,195.

Title: Form 1099–R—Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.

OMB Control Number: 1545–0119.

Type of Review: Revision of a currently approved collection.

Abstract: Form 1099–R is used to report distributions from pensions, annuities, profit-sharing or retirement plans, IRAs, and the surrender of insurance contracts. This information is used by IRS to verify that income has been properly reported by the recipient.

Form: 1099–R.

Affected Public: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 39,306,520.

Title: Form 2210, Underpayment of Estimated Tax by Individuals, Estate, and Trusts; Form 2210–F, Underpayment of Estimated Tax by Farmers and Fishermen.

OMB Control Number: 1545–0140.

Type of Review: Reinstatement with change of a previously approved collection.

Abstract: Internal Revenue Code section 6654 imposes a penalty for failure to pay estimated tax. These forms are used by taxpayers to determine whether they are subject to the penalty and to compute the penalty if it applies. The Service uses this information to determine whether the taxpayer is subject to the penalty, and to verify the penalty amount.

Form: 2210, 2210–F.

Affected Public: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 496,337.

Title: Form 4684—Casualties and Thefts.

OMB Control Number: 1545–0177.

Type of Review: Revision of a currently approved collection.

Abstract: Form 4684 is used by taxpayers to compute their gain or loss from casualties or thefts, and to summarize such gains and losses. The data is used to verify that the correct gain or loss has been computed.

Form: 4684.

Affected Public: Individuals or Households.

Estimated Total Annual Burden Hours: 1,293,895.

Title: Form 8233—Exemption From Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual.

OMB Control Number: 1545–0795.

Type of Review: Revision of a currently approved collection.

Abstract: Compensation paid to a nonresident alien (NRA) individual for independent personal services (self-employment) is generally subject to 30% withholding or graduated rates. However, compensation may be exempt from withholding because of a U.S. tax treaty or personal exemption amount. Form 8233 is used to request exemption from withholding.

Form: 8233.

Affected Public: Individuals or Households.

Estimated Total Annual Burden Hours: 669,211.

Title: Form 8858—Information Return of U.S. Persons With Respect To Foreign Disregarded Entities; and Transactions Between Foreign Disregarded Entity of a Foreign Tax Owner and the Filer.

OMB Control Number: 1545–0910.

Type of Review: Revision of a currently approved collection.

Abstract: Form 8858 and Schedule M (Form 8858) are used by certain U.S. persons that own a foreign disregarded entity (FDE) directly or, in certain circumstances, indirectly or constructively. The form and schedules are used to satisfy the reporting requirements of sections 6011, 6012, 6031, and 6038, and related regulations.

Form: 8858, Sch M (F. 8858).

Affected Public: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 917,800.

Title: Form 8621—Information Return by a Shareholder of a Passive Foreign Investment Company or Qualified Electing Fund.

OMB Control Number: 1545–1002.

Type of Review: Revision of a currently approved collection.

Abstract: Form 8621 is filed by a U.S. shareholder who owns stock in a foreign investment company. The form is used to report income, make an election to extend the time for payment of tax, and to pay an additional tax and interest amount. The IRS uses Form 8621 to determine if these shareholders have correctly reported amounts of income, made the election correctly, and have correctly computed the additional tax and interest amount.

Form: 8621.

Affected Public: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 65,304.

Title: Form 1098 Mortgage Interest Statement; TD 8571 (Formerly IA–17–90) Reporting Requirements for Recipients of Points Paid on Residential Mortgages.

OMB Control Number: 1545–1380.

Type of Review: Revision of a currently approved collection.

Abstract: To encourage compliance with the tax laws relating to the mortgage interest deduction, the regulations require the reporting on Form 1098 of points paid on residential mortgage. Only businesses that receive mortgage interest in the course of a trade or business are affected by this reporting requirement.

Form: 1098.

Affected Public: Individuals or Households.

Estimated Total Annual Burden Hours: 19,211,581.

Title: Form 8864—Biodiesel and Renewable Diesel Fuels Credit.

OMB Control Number: 1545–1924.

Type of Review: Extension without change of a currently approved collection.

Abstract: Form 8864 is used to figure biodiesel and renewable diesel fuels credit and to claim the credit for the tax year in which the sale or use occurs. This credit consists of the biodiesel credit, renewable diesel credit, biodiesel mixture credit, renewable diesel mixture credit, and small agri-biodiesel producer credit. IRC section 40A provides a credit for biodiesel or qualified biodiesel mixtures. IRC section 38(b)(17) allows a nonrefundable income tax credit for businesses that sell or use biodiesel. The biodiesel and renewable diesel fuels credit is scheduled expired for fuel sold or used in calendar year 2017 only. Don't claim this credit for fuel sold or used after

2017 on Form 8864 unless the credit is extended.

Form: 8864.

Affected Public: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 110.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: October 11, 2018.

Jennifer P. Quintana,

Treasury PRA Clearance Officer.

[FR Doc. 2018–22554 Filed 10–16–18; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

National Research Advisory Council; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act that the National Research Advisory Council will hold a meeting on Wednesday, December 5, 2018, at 1100 First Street NE, Room 104, Washington, DC 20002. The meeting will convene at 9:00 a.m. and end at 3:30 p.m. This meeting is open to the public.

The agenda will include information technology challenges, career development and merit awards, roadmaps overview, clinical trials, and cooperative research and development agreements (CRADA). No time will be allocated at this meeting for receiving oral presentations from the public. Members of the public wanting to attend may contact Rashelle Robinson, Designated Federal Officer, Office of Research and Development (10P9), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, at (202) 443–5668, or by email at *Rashelle.Robinson@va.gov* no later than close of business on November 28, 2018. Because the meeting is being held in a Government building, a photo I.D. must be presented at the Guard's Desk as a part of the clearance process. Any member of the public seeking additional information should contact Rashelle Robinson at the phone number or email address noted above.

Dated: October 12, 2018.

LaTonya L. Small,

Federal Advisory Committee Management Officer.

[FR Doc. 2018–22664 Filed 10–16–18; 8:45 am]

BILLING CODE P

FEDERAL REGISTER

Vol. 83 Wednesday,
No. 201 October 17, 2018

Part II

Postal Service

Change in Rates and Classes of General Applicability for Competitive Products; Notice

POSTAL SERVICE

Change in Rates and Classes of General Applicability for Competitive Products

AGENCY: Postal Service™.

ACTION: Notice of a change in rates of general applicability for competitive products.

SUMMARY: This notice sets forth changes in rates of general applicability for competitive products.

DATES: The rate change is effective January 27, 2019.

FOR FURTHER INFORMATION CONTACT: Elizabeth Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: On October 4, 2018, pursuant to their authority under 39 U.S.C. 3632, the Governors of the Postal Service established prices and classification changes for competitive products. The Governors' Decision and the record of proceedings in connection with such decision are reprinted below in accordance with section 3632(b)(2).

Elizabeth Reed,

Attorney, Corporate and Postal Business Law.

Decision of the Governors of the United States Postal Service on Changes in Rates of General Applicability for Competitive Products (Governors' Decision No. 18–1)

October 4, 2018

Statement of Explanation and Justification

Pursuant to authority under section 3632 of title 39, as amended by the Postal Accountability and Enhancement Act of 2006 (''PAEA''), we establish new prices of general applicability for the Postal Service's shipping services (competitive products), and such changes in classifications as are necessary to define the new prices. The changes are described generally below, with a detailed description of the changes in the attachment. The attachment includes the draft Mail Classification Schedule sections with classification changes in legislative format, and new prices displayed in the price charts.

As shown in the nonpublic annex being filed under seal herewith, the changes we establish should enable each competitive product to cover its attributable costs (39 U.S.C. 3633(a)(2)) and should result in competitive products as a whole complying with 39 U.S.C. 3633(a)(3), which, as implemented by 39 CFR 3015.7(c), requires competitive products collectively to contribute a minimum of 5.5 percent to the Postal Service's institutional costs. Accordingly, no issue of subsidization of competitive products by market dominant products should arise (39 U.S.C. 3633(a)(1)). We therefore find that the new prices are in accordance with 39 U.S.C. 3632–3633 and 39 CFR 3015.2.

I. Domestic Products

A. Priority Mail Express

Overall, the Priority Mail Express price change represents a 3.9 percent increase. The existing structure of zoned Retail, Commercial Base, and Commercial Plus price categories is maintained, with Commercial Base and Commercial Plus prices continuing to be set equal to each other. New for 2019, dimensional weighting will be implemented for Priority Mail Express for all Zones, with a dim divisor of 166.

Retail prices will increase an average of 3.9 percent. The price for the Retail Flat Rate Envelope, a significant portion of all Priority Mail Express volume, is increasing to $25.50, with the Legal Size and Padded Flat Rate Envelopes priced at $25.70 and $26.20, respectively.

The Commercial Base price category offers lower prices to customers who use online and other authorized postage payment methods. The Commercial Base prices will increase 3.9 percent on average. Commercial Base prices will, on average, reflect a 12.0 percent discount off of Retail prices.

The Commercial Plus price category has traditionally offered even lower prices to large-volume customers. However, recognizing that the Postal Service is at a competitive disadvantage in the marketplace by publishing these highly discounted prices that are viewable by all customers, Commercial Plus prices were matched to the Commercial Base prices in 2016 and will continue to be in 2019. For January, Commercial Plus prices as a whole will receive a 3.9 percent increase on average.

B. Priority Mail

On average, the Priority Mail prices will be increased by 5.9 percent. The existing structure of Priority Mail Retail, Commercial Base, and Commercial Plus price categories is maintained. New for 2019, dimensional weighting will be extended from Zones 5–9 to all Zones, and the dim divisor will be changed from 194 to 166. This change will eliminate the need for balloon pricing, the existing proxy for dim-weight pricing in Zones L–4.

Retail prices will increase an average of 6.6 percent. Retail Flat Rate Box prices will be: Small, $7.90; Medium, $14.35; Large, $19.95 and Large APO/FPO/DPO, $18.45. Thus, the Large APO/FPO/DPO Flat Rate Box will be $1.50 less than the Large Flat Rate Box. The regular Flat Rate Envelope will be priced at $7.35, with the Legal Size and Padded Flat Rate Envelopes priced at $7.65 and $8.00, respectively.

The Commercial Base price category offers lower prices to customers using authorized postage payment methods. The Commercial Base prices will increase 3.2 percent on average. Commercial Base prices will, on average, reflect a 13.6 percent discount off of Retail prices.

The Commercial Plus price category has traditionally offered even lower prices to large-volume customers. For January, Commercial Plus prices as a whole will receive a 6.2 percent increase and will average 13.6 percent off Retail prices.

C. Parcel Select

On average, prices for destination-entered non-Lightweight Parcel Select, the Postal Service's bulk ground shipping product, will increase 9.3 percent. For destination delivery unit (DDU) entered parcels, the average price increase is 9.9 percent. For destination sectional center facility (DSCF) destination entered parcels, the average price increase is 9.6 percent. For destination network distribution center (DNDC) parcels, the average price increase is 9.1 percent. Prices for Parcel Select Lightweight will increase by 12.3 percent. Parcel Select Ground will see a 1.3 percent price decrease, to encourage volume growth. New for 2019, dimensional weighting will be implemented for non-Lightweight Parcel Select over one cubic foot, with a dim divisor of 166. This change will eliminate the need for balloon pricing, the existing proxy for dim-weight pricing. Also new for 2019, an optional small parcel forwarding fee of $4.53 will be introduced for shippers of Parcel Select Lightweight parcels for which forwarding is desired.

D. Parcel Return Service

Parcel Return Service prices will have an overall price increase of 6.8 percent. Prices for parcels retrieved at a return Sectional Center Facility (RSCF) will increase by 7.3 percent, and prices for parcels picked up at a return delivery unit (RDU) will increase 6.4 percent.

E. First-Class Package Service

First-Class Package Service (FCPS) continues to be positioned as a lightweight (less than one pound) offering primarily used by businesses for fulfillment purposes. In 2017, First-

Class Mail Parcels were transferred to the competitive product list and renamed First-Class Package Service—Retail. New for 2019, the FCPS-Retail and FCPS-Commercial price categories will have zone-based pricing. Overall, First-Class Package Service prices will increase 12.3 percent, with a 13.3 percent increase for FCPS-Retail and an 11.9 percent increase for FCPS-Commercial.

F. Retail Ground

Retail Ground prices will increase 3.9 percent. Customers shipping in Zones 1–4 will continue to receive Priority Mail service and will only default to Retail Ground if the item contains hazardous material or is otherwise not permitted to travel by air transportation.

G. Domestic Extra Services

Premium Forwarding Service (PFS) prices will increase between 4.9 and 11.1 percent in 2019, depending on the specific rate element. The retail counter enrollment fee will increase to $21.10. The online enrollment option, introduced in 2014, will now be available for $19.35. The weekly reshipment fee will increase to $21.10. A new category called PFS Local will be introduced in 2019 for P.O. Box customers, with a daily reshipment fee of $21.10. Prices for Adult Signature service will increase to $6.40 for the basic service and $6.66 for the person-specific service. Address Enhancement Service prices will be increasing between 2.6 and 4.0 percent depending on the particular rate element, to ensure adequate cost coverage. Competitive Post Office Box prices will be increasing 10.0 percent on average, which is within the existing price ranges. Package Intercept Service will increase 4.8 percent, to $14.10. The Pickup On Demand fee will increase to $23.00 for 2019.

II. International Products

A. Expedited Services

International expedited services include Global Express Guaranteed (GXG) and Priority Mail Express International (PMEI). Overall, GXG prices will rise by 4.9 percent, and PMEI will be subject to an overall 3.9 percent increase. Commercial Plus prices will be equivalent to Commercial Base; however, deeper discounting may still be made available to customers through negotiated service agreements.

B. Priority Mail International

The overall increase for Priority Mail International (PMI) will be 3.9 percent. Commercial Plus prices will be equivalent to Commercial Base; however, deeper discounting may still be made available to customers through negotiated service agreements.

C. International Priority Airmail and International Surface Air Lift

Published prices for International Priority Airmail (IPA) and International Surface Air Lift (ISAL), as well as their associated M-Bags, will increase by 19.9 percent.

D. Airmail M-Bags

The published prices for Airmail M-Bags will increase by 5.0 percent.

E. First-Class Package International Service™

The overall increase First-Class Package International Service (FCPIS) prices will be 3.9 percent. Commercial Plus prices will be equivalent to Commercial Base; however, deeper discounting will still be made available to customers through negotiated service agreements.

F. International Ancillary Services and Special Services

Prices for several international ancillary services will be increased, with an overall increase of 10.4 percent. However, some services will be increased above average to ensure cost coverage, including International Postal Money Orders and Money Transfer Service, which will increase by 11.2 percent, and PMEI Insurance and PMI Insurance, which will increase by 21.5 and 20.7 percent, respectively.

Order

The changes in prices and classes set forth herein shall be effective at 12:01 a.m. on January 27, 2019. We direct the Secretary to have this decision published in the **Federal Register** in accordance with 39 U.S.C. 3632(b)(2), and direct management to file with the Postal Regulatory Commission appropriate notice of these changes.

By The Governors:

/s/

Robert M. Duncan,

Chairman, Temporary Emergency Committee of the Board of Governors.

United States Postal Service Office of the Board Of Governors

Certification of Governors' Vote on Governors' Decision No. 18–1

Consistent with 39 U.S.C. 3632(a), I hereby certify that the following Governors voted in favor of Governors' Decision No. 18–1:

Robert M. Duncan

David C. Williams

/s/

Date: October 4, 2018

Michael J. Elston,

Secretary of the Board of Governors (A).

Part B

Competitive Products

2000 Competitive Product List

2100 Domestic Products

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2105 Priority Mail Express

* * *

2105.2 Size and Weight Limitations

	Length	Height	Thickness	Weight
Minimum	large enough to accommodate postage, address, and other required elements on the address side			none.
Maximum	108 inches in combined length and girth			70 pounds.[1]
Flat Rate Envelopes	Nominal Sizes:. Regular: 9.5 x 12.5 inches. Legal: 9.5 x 15 inches. Padded: 9.5 x 12.5 inches.			

[1] *An overweight item charge, as described in the Domestic Mail Manual, applies to pieces found in the postal network that exceed the 70-pound maximum weight limitation. Such items are nonmailable and will not be delivered.*

* * *

2105.4 Price Categories

The following price categories are available for the product specified in this section:

- Retail
  - Zone/Weight—Prices are based on weight and zone
  - Flat Rate Envelopes—Envelope provided or approved by the Postal Service
  - *Dimensional Weight—Applies to parcels in zones local through 9 that exceed one cubic foot*
- Commercial Base—Prices are available to customers who use specifically authorized postage payment methods.
  - Zone/Weight—Prices are based on weight and zone
  - Flat Rate Envelopes—Envelope provided or approved by the Postal Service
  - *Dimensional Weight—Applies to parcels in zones local through 9 that exceed one cubic foot*
- Commercial Plus—Prices are available to customers who use specifically authorized postage payment methods and mail over 5,000 pieces annually.
  - Zone/Weight—Prices are based on weight and zone
  - Flat Rate Envelopes—Envelope provided or approved by the Postal Service
  - *Dimensional Weight—Applies to parcels in zones local through 9 that exceed one cubic foot*

* * *

2105.6 Prices

RETAIL PRIORITY MAIL EXPRESS ZONE/WEIGHT

Maximum weight (pounds)	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
0.5	25.50	25.60	26.40	29.05	31.05	32.95	35.20	47.70
1	25.60	26.80	32.25	36.60	37.85	40.20	41.45	56.10
2	25.70	28.65	35.25	39.95	41.65	44.05	45.55	61.80
3	25.80	30.10	39.80	47.10	49.10	52.05	53.50	72.55
4	25.85	32.25	42.55	53.45	55.55	58.80	60.40	81.90
5	27.05	36.20	45.40	57.20	62.45	65.40	67.15	91.00
6	30.95	41.40	52.65	65.00	68.40	71.95	74.10	100.45
7	33.90	45.35	60.35	71.05	74.25	78.55	81.35	110.25
8	37.25	49.75	65.35	76.50	80.65	85.25	87.55	118.70
9	38.70	51.75	67.80	81.75	86.90	91.85	94.30	127.80
10	40.75	53.95	70.35	85.40	91.35	96.55	99.00	134.20
11	43.25	60.55	78.90	89.85	94.25	99.45	102.00	138.30
12	45.50	64.80	83.80	94.55	98.45	104.05	106.55	144.45
13	48.20	68.95	87.65	98.90	102.60	108.35	112.75	152.80
14	50.40	73.25	91.10	102.70	106.90	112.90	117.35	159.15
15	52.00	77.30	94.95	107.05	111.30	117.35	122.10	165.50
16	54.25	81.75	98.65	111.25	116.10	122.45	126.15	171.05
17	56.35	85.95	102.40	115.25	120.00	126.45	129.70	175.80
18	58.60	90.05	106.05	119.35	124.20	130.95	134.40	182.10
19	60.75	94.35	109.60	123.30	128.50	135.35	138.85	188.15
20	62.05	96.65	112.95	126.85	130.95	137.95	142.25	192.85
21	64.10	103.70	117.65	132.15	138.05	145.30	149.05	202.00
22	66.50	107.95	122.75	137.95	142.35	149.80	154.75	209.75
23	68.50	112.10	126.30	141.90	146.75	154.40	159.25	215.85
24	71.00	116.50	130.45	146.45	151.15	159.05	162.75	220.70
25	73.85	120.80	133.65	149.80	155.30	163.25	167.90	227.60
26	75.50	125.15	137.40	154.15	159.65	167.85	172.65	234.10
27	77.70	129.20	141.05	158.05	163.90	172.20	177.20	240.25
28	79.25	133.60	145.60	163.00	168.15	176.60	181.85	246.50
29	81.70	137.75	150.35	168.30	172.50	181.15	186.30	252.55
30	84.00	142.00	155.10	173.50	177.40	186.30	192.25	260.55
31	86.10	146.25	159.75	178.75	183.05	192.15	198.30	268.80
32	88.40	150.70	164.60	183.95	188.35	197.70	204.20	276.85
33	91.15	154.90	169.25	189.20	193.90	203.40	210.05	284.70
34	93.75	159.00	174.15	194.55	199.25	208.90	215.90	292.75
35	96.10	163.30	178.75	199.45	204.60	214.40	221.80	300.65
36	98.60	167.65	183.55	204.85	210.20	220.25	227.75	308.85
37	100.75	171.75	188.30	210.00	215.80	226.00	233.75	316.80
38	103.10	176.20	193.05	215.30	221.15	231.55	239.50	324.75
39	105.65	180.45	197.90	220.50	226.30	236.85	245.45	332.80
40	107.90	184.50	202.70	225.80	231.85	242.50	251.50	340.90
41	110.00	188.85	207.40	230.90	237.45	248.40	257.35	348.75
42	111.95	193.20	212.20	236.05	243.05	254.10	263.20	356.80
43	114.55	197.40	216.80	241.20	248.40	259.60	269.15	364.85
44	116.65	201.70	221.65	246.45	253.75	265.15	275.00	372.75
45	118.90	206.00	226.25	251.50	259.20	270.75	281.05	380.95
46	121.20	210.10	231.30	256.85	264.60	276.30	286.85	388.85
47	123.75	214.35	236.00	262.00	270.10	281.95	292.80	396.85
48	125.85	218.80	240.65	267.00	275.50	287.50	298.70	404.90
49	128.15	222.90	245.50	272.15	281.15	293.25	304.60	413.00
50	130.85	227.30	250.25	277.50	286.40	298.65	310.50	420.90
51	133.15	231.60	255.00	282.55	291.75	304.15	315.60	427.85
52	135.40	235.60	259.65	287.65	297.40	309.90	322.50	437.05
53	137.65	240.05	264.50	292.80	302.85	315.45	328.35	445.10
54	140.10	244.30	269.20	297.80	308.35	321.10	334.20	453.05
55	142.90	249.95	274.10	303.10	313.65	326.55	340.10	461.00
56	145.85	254.30	278.75	308.10	319.05	332.15	346.00	469.10

RETAIL PRIORITY MAIL EXPRESS ZONE/WEIGHT—Continued

Maximum weight (pounds)	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
57	148.40	258.60	283.50	313.30	324.45	337.65	351.90	476.95
58	150.90	262.70	288.25	318.30	329.95	343.25	357.80	484.95
59	153.00	266.95	292.90	323.40	335.55	348.85	363.70	493.00
60	155.05	271.25	297.70	328.50	340.95	354.40	369.60	501.00
61	157.25	275.55	302.75	333.90	346.40	359.85	375.50	509.00
62	159.70	279.75	307.35	338.75	351.75	365.40	381.55	517.15
63	162.30	283.95	312.10	343.90	357.30	371.05	387.45	525.20
64	164.55	288.20	316.80	348.85	362.80	376.65	393.35	533.30
65	167.35	292.45	321.55	353.90	368.20	381.95	399.25	541.15
66	170.50	296.85	326.45	359.15	373.70	387.50	405.10	549.00
67	172.45	301.05	331.25	364.25	378.90	392.90	411.00	557.15
68	174.70	305.25	336.00	369.20	384.60	398.65	417.10	565.40
69	177.45	309.55	340.65	374.25	389.90	404.00	422.75	573.05
70	180.70	313.85	345.50	379.35	395.35	409.50	428.70	581.15

RETAIL FLAT RATE ENVELOPE

	($)
Retail Regular Flat Rate Envelope, per piece	25.50
Retail Legal Flat Rate Envelope, per piece	25.70
Retail Padded Flat Rate Envelope, per piece	26.20

Retail Dimensional Weight

In Zones 1–9 (including local), parcels exceeding one cubic foot are priced at the actual weight or the dimensional weight, whichever is greater.

For box-shaped parcels, the dimensional weight (pounds) is calculated by multiplying the length (inches) times the width (inches) times the height (inches) of the parcel, and dividing by 166.

For irregular-shaped parcels (parcels not appearing box-shaped), the dimensional weight (pounds) is calculated by multiplying the length (inches) times the width (inches) times the height (inches) at the associated maximum cross-sections of the parcel, dividing by 166, and multiplying by an adjustment factor of 0.785.

COMMERCIAL BASE ZONE/WEIGHT

Maximum weight (pounds)	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
0.5	22.68	22.73	23.49	25.56	27.38	29.10	31.08	41.67
1	22.74	23.77	28.66	32.11	33.29	35.37	36.52	49.00
2	22.78	25.42	31.30	35.06	36.54	38.72	40.16	53.87
3	22.83	26.65	35.26	40.43	42.22	44.76	46.10	61.80
4	22.87	28.45	37.67	45.81	47.65	50.51	51.96	69.70
5	23.91	31.94	40.16	49.01	53.56	56.16	57.79	77.47
6	27.34	36.55	46.52	55.65	58.61	61.67	63.69	85.41
7	29.96	40.04	53.30	60.86	63.67	67.37	69.91	93.79
8	32.90	43.94	57.76	65.44	69.11	73.13	75.29	100.95
9	34.19	45.67	59.90	70.00	74.47	78.79	81.06	108.72
10	35.99	47.61	62.19	73.14	78.31	82.85	85.12	114.12
11	37.46	52.48	68.46	77.05	80.91	85.53	87.87	117.84
12	39.47	56.16	72.75	81.13	84.56	89.44	91.78	123.09
13	41.78	59.81	76.09	84.83	88.10	93.12	97.12	130.22
14	43.70	63.49	79.08	88.13	91.81	97.04	101.11	135.59
15	45.10	67.01	82.42	91.86	95.55	100.92	105.17	141.04
16	47.07	70.85	85.67	95.41	99.69	105.26	108.69	145.77
17	48.90	74.53	88.92	98.91	103.04	108.71	111.75	149.83
18	50.86	78.08	92.07	102.40	106.63	112.56	115.74	155.23
19	52.66	81.76	95.21	105.85	110.34	116.36	119.60	160.38
20	54.92	85.45	99.93	111.01	114.63	120.90	124.94	167.55
21	56.16	90.79	103.08	114.51	119.69	126.18	129.63	173.84
22	58.25	94.59	107.60	119.48	123.49	130.09	134.63	180.54
23	59.99	98.22	110.75	122.97	127.28	134.06	138.53	185.79
24	62.18	102.00	114.36	126.87	131.13	138.07	141.61	189.87
25	64.69	105.80	117.10	129.83	134.69	141.75	146.05	195.84
26	66.11	109.57	120.50	133.57	138.47	145.71	150.20	201.45
27	68.02	113.16	123.64	136.96	142.12	149.51	154.15	206.71
28	69.39	116.94	127.58	141.29	145.82	153.37	158.20	212.15
29	71.55	120.63	131.76	145.82	149.61	157.20	162.06	217.30
30	73.56	124.37	135.94	150.34	153.90	161.75	167.19	224.21

COMMERCIAL BASE ZONE/WEIGHT—Continued

Maximum weight (pounds)	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
31	75.38	128.10	140.03	154.88	158.77	166.78	172.48	231.32
32	77.38	131.97	144.26	159.37	163.40	171.61	177.63	238.23
33	79.78	135.61	148.39	163.90	168.19	176.53	182.72	245.01
34	82.08	139.25	152.66	168.56	172.83	181.38	187.80	251.85
35	84.20	143.03	156.65	172.85	177.46	186.16	192.95	258.76
36	86.35	146.80	160.92	177.47	182.34	191.18	198.14	265.71
37	88.22	150.45	165.05	181.94	187.15	196.18	203.32	272.66
38	90.29	154.27	169.23	186.54	191.79	201.00	208.37	279.44
39	92.53	158.02	173.47	191.02	196.28	205.64	213.55	286.41
40	94.50	161.60	177.71	195.64	201.05	210.58	218.74	293.36
41	96.36	165.44	181.83	200.07	205.93	215.64	223.84	300.16
42	98.07	169.21	186.00	204.55	210.76	220.58	228.92	307.00
43	100.33	172.85	190.09	208.98	215.43	225.38	234.12	313.95
44	102.15	176.64	194.33	213.51	220.07	230.20	239.21	320.80
45	104.12	180.41	198.35	217.89	224.80	235.08	244.45	327.80
46	106.16	184.02	202.79	222.57	229.50	239.88	249.54	334.64
47	108.38	187.79	206.85	227.01	234.22	244.75	254.68	341.55
48	110.24	191.63	210.94	231.32	238.95	249.60	259.82	348.45
49	112.20	195.21	215.18	235.82	243.83	254.61	265.00	355.40
50	114.61	199.03	219.41	240.44	248.37	259.26	270.10	362.20
51	116.61	202.83	223.54	244.83	253.04	264.05	274.55	368.17
52	118.63	206.36	227.61	249.20	257.93	269.02	280.47	376.15
53	120.53	210.20	231.89	253.69	262.66	273.91	285.61	382.99
54	122.70	213.99	235.98	258.06	267.38	278.74	290.71	389.85
55	125.14	218.89	240.30	262.65	272.06	283.48	295.79	396.70
56	127.74	222.72	244.38	266.98	276.74	288.32	300.98	403.64
57	129.95	226.45	248.56	271.45	281.42	293.14	306.08	410.44
58	132.16	230.05	252.69	275.78	286.20	297.98	311.22	417.33
59	133.98	233.77	256.82	280.21	291.04	302.85	316.35	424.22
60	135.80	237.51	261.01	284.64	295.72	307.65	321.50	431.12
61	137.70	241.34	265.38	289.27	300.45	312.44	326.63	438.03
62	139.85	244.97	269.42	293.50	305.09	317.16	331.87	445.04
63	142.16	248.67	273.60	297.93	309.86	322.10	337.06	451.98
64	144.06	252.40	277.72	302.26	314.64	326.92	342.20	458.89
65	146.51	256.14	281.87	306.66	319.33	331.62	347.24	465.68
66	149.27	259.98	286.14	311.18	324.05	336.46	352.34	472.46
67	151.00	263.59	290.37	315.62	328.64	341.09	357.53	479.43
68	152.99	267.34	294.50	319.89	333.58	346.12	362.81	486.54
69	155.41	271.12	298.62	324.28	338.15	350.76	367.71	493.11
70	158.24	274.86	302.86	328.65	342.92	355.54	372.90	500.07

COMMERCIAL BASE FLAT RATE ENVELOPE

	($)
Commercial Base Regular Flat Rate Envelope, per piece	22.68
Commercial Base Legal Flat Rate Envelope, per piece	22.80
Commercial Base Padded Flat Rate Envelope, per piece	23.18

Commercial Base Dimensional Weight

In Zones 1–9 (including local), parcels exceeding one cubic foot are priced at the actual weight or the dimensional weight, whichever is greater.

For box-shaped parcels, the dimensional weight (pounds) is calculated by multiplying the length (inches) times the width (inches) times the height (inches) of the parcel, and dividing by 166.

For irregular-shaped parcels (parcels not appearing box-shaped), the dimensional weight (pounds) is calculated by multiplying the length (inches) times the width (inches) times the height (inches) at the associated maximum cross-sections of the parcel, dividing by 166, and multiplying by an adjustment factor of 0.785.

COMMERCIAL PLUS ZONE/WEIGHT

Maximum weight (pounds)	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
0.5	22.68	22.73	23.49	25.56	27.38	29.10	31.08	41.67
1	22.74	23.77	28.66	32.11	33.29	35.37	36.52	49.00
2	22.78	25.42	31.30	35.06	36.54	38.72	40.16	53.87
3	22.83	26.65	35.26	40.43	42.22	44.76	46.10	61.80

COMMERCIAL PLUS ZONE/WEIGHT—Continued

Maximum weight (pounds)	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
4	22.87	28.45	37.67	45.81	47.65	50.51	51.96	69.70
5	23.91	31.94	40.16	49.01	53.56	56.16	57.79	77.47
6	27.34	36.55	46.52	55.65	58.61	61.67	63.69	85.41
7	29.96	40.04	53.30	60.86	63.67	67.37	69.91	93.79
8	32.90	43.94	57.76	65.44	69.11	73.13	75.29	100.95
9	34.19	45.67	59.90	70.00	74.47	78.79	81.06	108.72
10	35.99	47.61	62.19	73.14	78.31	82.85	85.12	114.12
11	37.46	52.48	68.46	77.05	80.91	85.53	87.87	117.84
12	39.47	56.16	72.75	81.13	84.56	89.44	91.78	123.09
13	41.78	59.81	76.09	84.83	88.10	93.12	97.12	130.22
14	43.70	63.49	79.08	88.13	91.81	97.04	101.11	135.59
15	45.10	67.01	82.42	91.86	95.55	100.92	105.17	141.04
16	47.07	70.85	85.67	95.41	99.69	105.26	108.69	145.77
17	48.90	74.53	88.92	98.91	103.04	108.71	111.75	149.83
18	50.86	78.08	92.07	102.40	106.63	112.56	115.74	155.23
19	52.66	81.76	95.21	105.85	110.34	116.36	119.60	160.38
20	54.92	85.45	99.93	111.01	114.63	120.90	124.94	167.55
21	56.16	90.79	103.08	114.51	119.69	126.18	129.63	173.84
22	58.25	94.59	107.60	119.48	123.49	130.09	134.63	180.54
23	59.99	98.22	110.75	122.97	127.28	134.06	138.53	185.79
24	62.18	102.00	114.36	126.87	131.13	138.07	141.61	189.87
25	64.69	105.80	117.10	129.83	134.69	141.75	146.05	195.84
26	66.11	109.57	120.50	133.57	138.47	145.71	150.20	201.45
27	68.02	113.16	123.64	136.96	142.12	149.51	154.15	206.71
28	69.39	116.94	127.58	141.29	145.82	153.37	158.20	212.15
29	71.55	120.63	131.76	145.82	149.61	157.20	162.06	217.30
30	73.56	124.37	135.94	150.34	153.90	161.75	167.19	224.21
31	75.38	128.10	140.03	154.88	158.77	166.78	172.48	231.32
32	77.38	131.97	144.26	159.37	163.40	171.61	177.63	238.23
33	79.78	135.61	148.39	163.90	168.19	176.53	182.72	245.01
34	82.08	139.25	152.66	168.56	172.83	181.38	187.80	251.85
35	84.20	143.03	156.65	172.85	177.46	186.16	192.95	258.76
36	86.35	146.80	160.92	177.47	182.34	191.18	198.14	265.71
37	88.22	150.45	165.05	181.94	187.15	196.18	203.32	272.66
38	90.29	154.27	169.23	186.54	191.79	201.00	208.37	279.44
39	92.53	158.02	173.47	191.02	196.28	205.64	213.55	286.41
40	94.50	161.60	177.71	195.64	201.05	210.58	218.74	293.36
41	96.36	165.44	181.83	200.07	205.93	215.64	223.84	300.16
42	98.07	169.21	186.00	204.55	210.76	220.58	228.92	307.00
43	100.33	172.85	190.09	208.98	215.43	225.38	234.12	313.95
44	102.15	176.64	194.33	213.51	220.07	230.20	239.21	320.80
45	104.12	180.41	198.35	217.89	224.80	235.08	244.45	327.80
46	106.16	184.02	202.79	222.57	229.50	239.88	249.54	334.64
47	108.38	187.79	206.85	227.01	234.22	244.75	254.68	341.55
48	110.24	191.63	210.94	231.32	238.95	249.60	259.82	348.45
49	112.20	195.21	215.18	235.82	243.83	254.61	265.00	355.40
50	114.61	199.03	219.41	240.44	248.37	259.26	270.10	362.20
51	116.61	202.83	223.54	244.83	253.04	264.05	274.55	368.17
52	118.63	206.36	227.61	249.20	257.93	269.02	280.47	376.15
53	120.53	210.20	231.89	253.69	262.66	273.91	285.61	382.99
54	122.70	213.99	235.98	258.06	267.38	278.74	290.71	389.85
55	125.14	218.89	240.30	262.65	272.06	283.48	295.79	396.70
56	127.74	222.72	244.38	266.98	276.74	288.32	300.98	403.64
57	129.95	226.45	248.56	271.45	281.42	293.14	306.08	410.44
58	132.16	230.05	252.69	275.78	286.20	297.98	311.22	417.33
59	133.98	233.77	256.82	280.21	291.04	302.85	316.35	424.22
60	135.80	237.51	261.01	284.64	295.72	307.65	321.50	431.12
61	137.70	241.34	265.38	289.27	300.45	312.44	326.63	438.03
62	139.85	244.97	269.42	293.50	305.09	317.16	331.87	445.04
63	142.16	248.67	273.60	297.93	309.86	322.10	337.06	451.98
64	144.06	252.40	277.72	302.26	314.64	326.92	342.20	458.89
65	146.51	256.14	281.87	306.66	319.33	331.62	347.24	465.68
66	149.27	259.98	286.14	311.18	324.05	336.46	352.34	472.46
67	151.00	263.59	290.37	315.62	328.64	341.09	357.53	479.43
68	152.99	267.34	294.50	319.89	333.58	346.12	362.81	486.54
69	155.41	271.12	298.62	324.28	338.15	350.76	367.71	493.11
70	158.24	274.86	302.86	328.65	342.92	355.54	372.90	500.07

COMMERCIAL PLUS FLAT RATE ENVELOPE

	($)
Commercial Plus Regular Flat Rate Envelope, per piece	22.68
Commercial Plus Legal Flat Rate Envelope, per piece	22.80
Commercial Plus Padded Flat Rate Envelope, per piece	23.18

Commercial Plus Dimensional Weight

In Zones 1–9 (including local), parcels exceeding one cubic foot are priced at the actual weight or the dimensional weight, whichever is greater.

For box-shaped parcels, the dimensional weight (pounds) is calculated by multiplying the length (inches) times the width (inches) times the height (inches) of the parcel, and dividing by 166.

For irregular-shaped parcels (parcels not appearing box-shaped), the dimensional weight (pounds) is calculated by multiplying the length (inches) times the width (inches) times the height (inches) at the associated maximum cross-sections of the parcel, dividing by 166, and multiplying by an adjustment factor of 0.785.

Pickup On Demand Service

Add ~~$22.00~~$23.00 for each Pickup On Demand stop.

Sunday/Holiday Delivery

Add $12.50 for requesting Sunday or holiday delivery.

10:30 am Delivery

Add $5.00 for requesting delivery by 10:30 am.

IMpb Noncompliance Fee

Add $0.20 for each IMpb-noncompliant parcel paying commercial prices.

2110 Priority Mail 2110.2 Size and Weight Limitations

* * *

	Length	Height	Thickness	Weight
Minimum	large enough to accommodate postage, address, and other required elements on the address side			none.
Maximum	.....	.....	.....	70 pounds.[1]
Flat Rate Envelope	Nominal Sizes: Regular: 9.5 x 12.5 inches Padded: 10 x 13 inches Legal: 9.5 x 15.0 inches			
Flat Rate Box	Nominal Sizes: Large: 12 x 12 x 5.5 inches or 11.75 x 3 x 23.6875 inches—approximately ½ cu. ft Medium: 11.875 x 3.375 x 13.625 inches or 11 x 8.5 x 5.5 inches—approximately ⅓ cu. ft Small: 8.625 x 5.375 x 1.625 inches—approximately 1/20 cu. ft			
Regional Rate Box A	Outside Dimensions: Top Loaded: 10.125 x 7.125 x 5.0 inches Side Loaded: 13.0625 x 11.0625 x 2.5 inches			15 pounds.
Regional Rate Box B	Outside Dimensions: Top Loaded: 12.25 x 10.5 x 5.5 inches Side Loaded: 16.25 x 14.5 x 3 inches			20 pounds.

	Length	Height	Thickness	Weight
Commercial Plus Cubic	Various, not to exceed 0.1, 0.2, 0.3, 0.4, or 0.5 cubic feet			20 pounds.
Open and Distribute	Half Tray: 15 x 11.75 x 4.75 inches			70 pounds.[1]
All Others	Full Tray: 25.875 x 11.75 x 4.75 inches EMM Tray: 12.375 x 6.4375 x 25.25 inches Flat Tub: 19.375 x 13.8125 x 12.25 inches 108 inches in combined length and girth			70 pounds.[1]

[1] An overweight item charge, as described in the Domestic Mail Manual, applies to pieces found in the postal network that exceed the 70-pound maximum weight limitation. Such items are nonmailable and will not be delivered.

* * *

BILLING CODE 7710–12–P

2110.4 Price Categories

The following price categories are available for the product specified in this section:

- Retail
  - Zone/Weight – Prices are based on weight and zone
  - Flat Rate Envelopes – Envelope provided or approved by the Postal Service
  - Flat Rate Boxes – Boxes provided or approved by the Postal Service
  - Regional Rate Boxes
  - ~~Balloon Price – Applies to parcels in zones local through 4, weighing less than 20 pounds, and measuring between 84 and 108 inches in combined length and girth~~
  - Dimensional Weight – Applies to parcels in zones ~~5~~local through ~~8~~9 that exceed one cubic foot

- Commercial Base – Available to mailers who use specifically authorized postage payment methods
  - Zone/Weight – Prices are based on weight and zone
  - Flat Rate Envelopes – Envelope provided or approved by the Postal Service
  - Flat Rate Boxes – Boxes provided or approved by the Postal Service
  - Regional Rate Boxes
  - ~~Balloon Price – Applies to parcels in zones local through 4, weighing less than 20 pounds, and measuring between 84 and 108 inches in combined length and girth~~
  - Dimensional Weight – Applies to parcels in zones ~~5~~local through ~~8~~9 that exceed one cubic foot

- Commercial Plus – Available to mailers who use specifically authorized postage payment methods and whose annual volume exceeds 50,000 pieces or 600 open and distribute containers for parcels, or 5,000 letter-sized pieces excluding the Padded Flat Rate Envelope
  - Zone/Weight – Prices are based on weight and zone
  - Flat Rate Envelopes – Envelope provided or approved by the Postal Service
  - Flat Rate Boxes – Boxes provided or approved by the Postal Service
  - Regional Rate Boxes
  - ~~Balloon Price – Applies to parcels in zones local through 4, weighing less than 20 pounds, and measuring between 84 and 108 inches in combined length and girth~~

- Dimensional Weight – Applies to parcels in zones ~~5~~local through ~~8~~9 that exceed one cubic foot

- Commercial Plus Cubic – Prices are available to customers who use specifically authorized postage payment methods and whose annual Priority Mail volume exceeds 50,000 pieces
  - Zone/Cubic Volume

- Open and Distribute (PMOD) – Prices are available to customers who use specifically authorized postage payment methods
  - Processing Facilities – Received at designated processing facilities, or other equivalent facility
- Half Tray, Full Tray, EMM Tray, or Flat Tub
  - DDU – Received at designated Destination Delivery Unit, or other equivalent facility
- Half Tray, Full Tray, EMM Tray, or Flat Tub

* * *

2110.6 Prices

BILLING CODE 7710–12–C

RETAIL PRIORITY MAIL ZONE/WEIGHT

Maximum weight (pounds)	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
1	7.35	7.70	7.85	8.00	8.20	8.60	9.30	12.20
2	7.85	8.30	9.45	10.40	11.20	13.00	14.20	19.40
3	8.30	9.25	10.50	11.95	12.60	16.10	19.05	25.95
4	8.75	10.15	11.10	13.40	16.45	19.80	22.05	30.05
5	9.80	10.85	11.60	13.70	18.70	22.70	25.45	34.80
6	10.55	11.10	12.30	14.95	20.80	24.65	27.80	39.25
7	11.50	12.60	14.80	18.05	23.05	27.65	31.30	44.15
8	11.85	13.95	16.45	21.70	26.15	30.60	35.00	49.40
9	12.30	15.05	18.20	24.75	28.45	33.05	38.95	54.95
10	13.10	16.15	19.60	26.85	30.75	36.35	42.45	59.90
11	13.95	17.30	21.05	29.00	33.00	40.15	46.60	66.30
12	15.20	18.55	22.60	31.05	35.90	43.40	50.00	71.15
13	16.10	19.65	23.90	32.80	38.55	45.15	51.80	73.70
14	17.10	20.90	25.40	34.90	40.70	47.70	54.40	77.40
15	17.80	22.05	26.85	36.90	42.45	48.75	55.90	79.60
16	18.30	23.25	28.30	38.95	44.80	51.45	59.00	83.95
17	19.15	24.50	29.80	41.00	47.10	54.20	62.10	88.40
18	19.50	25.35	31.05	43.00	49.60	56.80	65.30	92.90
19	20.05	25.95	31.75	44.20	50.55	58.05	66.65	97.30
20	20.90	26.25	32.25	44.90	51.75	60.10	69.75	101.80
21	21.60	26.60	32.70	45.60	52.65	61.10	71.35	104.95
22	22.10	27.20	33.50	46.70	53.80	62.60	73.05	107.55
23	22.60	27.75	34.05	47.45	54.80	63.80	74.35	109.40
24	23.15	28.30	34.85	48.50	55.95	65.40	76.20	112.15
25	23.35	28.80	36.25	49.30	56.65	67.05	77.45	113.95
26	24.30	29.35	37.60	50.30	58.05	68.70	79.90	117.60
27	25.05	29.75	38.75	51.30	58.90	70.30	82.90	122.00
28	25.80	30.15	39.90	52.60	59.65	71.90	86.00	126.60
29	26.60	30.50	40.90	53.35	60.70	73.55	88.35	130.00
30	27.40	30.90	41.85	54.10	62.35	75.25	90.25	132.85
31	28.20	31.20	42.55	54.80	63.30	76.85	92.05	136.60
32	28.50	31.90	43.25	55.40	64.10	78.50	93.95	139.40
33	29.00	32.75	44.35	56.15	65.35	80.15	95.70	142.05
34	29.25	33.65	45.45	57.35	66.85	81.80	97.50	144.65
35	29.55	34.45	46.05	58.60	68.65	83.40	99.10	147.10
36	29.85	35.40	46.70	59.80	70.45	84.55	100.85	149.60
37	30.15	36.05	47.35	60.90	72.25	85.65	102.50	152.10
38	30.50	36.95	47.95	62.10	74.25	86.70	104.15	154.55
39	30.80	37.80	48.55	63.40	76.05	88.90	105.70	156.85
40	31.15	38.60	49.20	64.75	77.25	90.90	107.20	159.05
41	31.45	39.35	49.75	65.35	78.50	92.85	108.75	162.60
42	31.70	40.05	50.30	66.75	79.90	94.05	110.20	164.85

RETAIL PRIORITY MAIL ZONE/WEIGHT—Continued

Maximum weight (pounds)	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
43	32.10	40.70	50.75	68.25	81.85	95.25	111.60	166.90
44	32.30	41.35	51.40	69.65	83.15	96.35	112.90	168.95
45	32.50	41.80	51.75	71.25	84.05	97.45	114.35	171.05
46	32.75	42.10	52.30	72.55	84.95	98.50	115.70	173.15
47	33.05	42.50	52.80	74.20	85.90	99.60	117.00	174.95
48	33.35	42.85	53.30	75.65	87.05	100.55	118.25	176.85
49	33.55	43.15	53.70	77.05	88.20	101.60	119.45	178.65
50	33.70	43.40	54.10	78.55	89.35	102.90	120.65	180.50
51	33.85	43.85	54.60	79.85	90.60	104.40	121.75	183.60
52	34.25	44.10	54.95	80.50	91.55	105.95	123.20	185.85
53	34.85	44.40	55.30	81.15	92.30	107.65	124.80	188.25
54	35.30	44.60	55.70	81.80	93.00	109.25	126.60	190.85
55	35.90	44.90	56.00	82.40	93.70	110.95	128.25	193.45
56	36.40	45.20	56.30	82.95	94.35	112.55	129.45	195.20
57	36.90	45.35	56.65	83.40	95.05	114.25	130.40	196.65
58	37.50	45.55	57.00	84.00	95.60	115.80	131.40	198.10
59	38.10	45.75	57.30	84.50	96.15	116.50	132.45	199.70
60	38.60	45.95	57.85	84.90	96.65	117.20	133.25	201.00
61	39.15	46.15	58.90	85.35	97.20	117.85	135.10	203.80
62	39.60	46.25	59.60	85.80	97.70	118.40	137.30	207.00
63	40.35	46.50	60.60	86.20	98.20	118.95	139.50	210.35
64	40.75	46.65	61.50	86.60	98.60	119.55	141.55	213.50
65	41.30	46.75	62.30	86.90	98.95	120.10	143.85	216.90
66	41.80	46.95	63.30	87.30	99.40	120.50	145.85	220.00
67	42.50	47.05	64.40	87.60	99.70	121.00	147.80	222.85
68	43.00	47.15	65.20	87.80	100.95	121.45	149.40	225.30
69	43.55	47.20	66.00	88.05	102.20	121.75	151.00	227.65
70	44.05	47.30	67.05	88.35	103.45	122.20	152.65	230.10

RETAIL FLAT RATE ENVELOPES [1]

	($)
Retail Regular Flat Rate Envelope, per piece	7.35
Retail Legal Flat Rate Envelope, per piece	7.65
Retail Padded Flat Rate Envelope, per piece	8.00

Notes

1. The price for Regular, Legal, or Padded Flat Rate Envelopes also applies to sales of Regular, Legal, or Padded Flat Rate Envelopes, respectively, marked with Forever postage, at the time the envelopes are purchased.

RETAIL FLAT RATE BOXES [1]

Size	Delivery to domestic address ($)	Delivery to APO/FPO/DPO address ($)
Small Flat Rate Box	7.90	7.90
Medium Flat Rate Boxes	14.35	14.35
Large Flat Rate Boxes	19.95	18.45

Notes

1. The price for Small, Medium, or Large Flat Rate Boxes also applies to sales of Small, Medium, or Large Flat Rate Boxes, respectively, marked with Forever postage, at the time the boxes are purchased.

REGIONAL RATE BOXES

Size	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
A	9.95	10.15	10.42	11.06	12.30	12.85	13.50	17.94
B	10.35	10.80	11.70	12.95	18.45	20.77	23.33	32.03

~~*Retail Balloon Price*~~

~~In Zones 1-4 (including local), parcels weighing less than 20 pounds but measuring more than 84 inches in combined length and girth (but not more than 108 inches) are charged the applicable price for a 20-pound parcel.~~

Retail Dimensional Weight

In Zones ~~5-8~~1-9 (including local), parcels exceeding one cubic foot are priced at the actual weight or the dimensional weight, whichever is greater.

For box-shaped parcels, the dimensional weight (pounds) is calculated by multiplying the length (inches) times the width (inches) times the height (inches) of the parcel, and dividing by ~~194~~166.

For irregular-shaped parcels (parcels not appearing box-shaped), the dimensional weight (pounds) is calculated by multiplying the length (inches) times the width (inches) times the height (inches) at the associated maximum cross-sections of the parcel, dividing by ~~194~~166, and multiplying by an adjustment factor of 0.785.

COMMERCIAL BASE PRIORITY MAIL ZONE/WEIGHT

Maximum weight (pounds)	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
1	6.95	7.28	7.49	7.65	7.82	7.99	8.25	9.91
2	7.42	7.61	7.88	8.50	9.70	10.23	10.86	15.17
3	7.61	7.99	8.34	9.26	11.80	13.10	15.28	20.58
4	7.71	8.20	8.81	10.03	13.75	15.59	17.61	24.78
5	7.81	8.25	9.12	10.33	15.67	17.92	20.40	28.84
6	7.91	8.29	9.22	13.77	17.93	20.83	23.81	33.05
7	8.15	9.41	9.46	15.43	19.86	23.48	26.75	37.11
8	8.20	9.87	11.16	16.84	21.82	25.85	30.04	41.66
9	9.01	10.25	11.62	18.06	23.74	28.00	33.40	46.33
10	9.38	10.67	11.69	19.51	25.64	30.79	36.32	50.38
11	10.67	12.77	13.69	21.31	27.52	33.51	39.34	55.04
12	11.32	13.58	15.93	22.81	30.01	36.23	42.20	59.01
13	11.91	14.36	16.68	24.03	32.21	37.69	43.69	61.12
14	12.52	15.15	17.57	25.43	34.02	39.79	45.86	64.15
15	13.01	15.94	18.42	26.74	35.33	40.56	47.06	65.84
16	13.45	16.79	19.42	28.07	37.34	42.84	49.65	69.46
17	13.88	17.57	20.35	29.44	39.23	45.07	52.29	73.12
18	14.15	18.11	21.26	30.76	41.31	47.29	54.91	76.81
19	14.48	18.53	21.75	31.57	43.16	49.49	57.51	80.45
20	15.05	18.82	22.19	32.15	44.28	51.34	60.18	84.16
21	15.71	19.27	22.70	32.72	44.63	51.82	60.95	85.96
22	16.21	19.79	23.46	33.37	44.93	52.22	61.65	86.96
23	16.69	20.26	24.02	33.98	45.18	52.58	62.02	87.47
24	17.37	21.12	25.38	35.32	46.13	53.95	63.53	89.61
25	18.04	21.87	26.99	36.50	46.81	55.30	64.64	91.15
26	19.13	23.45	29.81	38.45	47.95	56.66	66.66	94.00
27	20.27	24.50	31.63	41.91	48.60	57.98	69.16	97.56
28	20.89	24.83	32.52	43.00	49.26	59.33	71.76	101.22
29	21.53	25.08	33.40	43.57	50.08	60.69	73.69	103.92
30	22.17	25.45	34.19	44.17	51.49	62.02	75.27	106.17
31	22.79	25.70	34.72	44.73	52.23	63.39	76.81	109.22
32	23.06	26.24	35.30	45.25	52.92	64.76	78.38	111.44
33	23.41	26.97	36.18	45.85	53.94	66.09	79.82	113.50
34	23.63	27.67	37.09	46.84	55.22	67.45	81.32	115.65
35	23.89	28.33	37.63	47.83	56.70	68.80	82.72	117.62
36	24.19	29.15	38.12	48.87	58.13	69.74	84.12	119.63
37	24.44	29.69	38.67	49.74	59.65	70.63	85.50	121.60

COMMERCIAL BASE PRIORITY MAIL ZONE/WEIGHT—Continued

Maximum weight (pounds)	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
38	24.68	30.41	39.16	50.73	61.31	71.44	86.86	123.54
39	24.92	31.12	39.61	51.78	62.76	73.32	88.21	125.45
40	25.18	31.78	40.12	52.86	63.77	74.96	89.41	127.15
41	25.45	32.31	40.55	53.33	64.84	76.56	90.70	130.01
42	25.64	32.55	40.91	54.22	65.98	77.61	91.94	131.78
43	25.93	32.79	41.27	55.12	67.56	78.57	93.12	133.47
44	26.11	33.03	41.63	56.01	68.64	79.50	94.17	135.01
45	26.28	33.26	42.00	56.91	69.39	80.36	95.36	136.71
46	26.51	33.50	42.36	57.80	70.17	81.23	96.51	138.34
47	26.71	33.74	42.72	58.70	70.90	82.16	97.58	139.89
48	26.93	33.98	43.08	59.59	71.81	82.94	98.62	141.41
49	27.14	34.21	43.45	60.49	72.79	83.81	99.62	142.79
50	27.25	34.45	43.81	61.38	73.81	84.88	100.66	144.32
51	27.65	34.69	44.16	62.43	74.82	86.09	101.60	146.83
52	28.07	34.93	44.52	62.87	75.55	87.39	102.80	148.54
53	28.59	35.16	44.89	63.38	76.19	88.82	104.11	150.44
54	29.00	35.41	45.24	63.93	76.73	90.09	105.57	152.55
55	29.46	35.64	45.61	64.34	77.36	91.52	106.99	154.60
56	29.86	35.88	45.97	64.82	77.88	92.81	108.08	156.20
57	30.34	36.11	46.34	65.21	78.47	94.22	109.04	157.60
58	30.79	36.35	46.69	65.62	78.93	95.47	109.94	158.87
59	31.23	36.59	47.05	66.02	79.38	96.12	110.75	160.06
60	31.63	36.82	47.41	66.38	79.78	96.68	111.54	161.18
61	32.14	37.06	47.78	66.72	80.22	97.24	113.04	163.37
62	32.53	37.30	48.13	67.01	80.60	97.67	114.84	165.95
63	33.12	37.54	48.50	67.36	81.06	98.14	116.68	168.61
64	33.41	37.77	48.86	67.66	81.42	98.59	118.47	171.21
65	33.90	38.01	49.23	67.87	81.65	99.08	120.32	173.89
66	34.34	38.25	49.58	68.18	82.07	99.38	122.07	176.41
67	34.85	38.49	50.42	68.42	82.33	99.78	123.69	178.73
68	35.26	38.72	51.06	68.61	83.36	100.30	125.00	180.63
69	35.74	38.96	51.71	68.81	84.36	100.77	126.32	182.56
70	36.11	39.20	52.52	69.03	85.38	101.13	127.68	184.51

Commercial Base Flat Rate Envelope

	($)
Commercial Base Regular Flat Rate Envelope, per piece	6.95
Commercial Base ~~Padded~~Legal Flat Rate Envelope, per piece	7.25
Commercial Base ~~Legal~~Padded Flat Rate Envelope, per piece	7.55

COMMERCIAL BASE FLAT RATE BOX

Size	Delivery to domestic address ($)	Delivery to APO/FPO/DPO address ($)
Small Flat Rate Box	7.50	7.50
Regular Flat Rate Boxes	12.80	12.80
Large Flat Rate Boxes	17.60	16.10

COMMERCIAL BASE REGIONAL RATE BOXES

Size	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
A	7.65	7.85	8.12	8.76	10.00	10.55	11.20	15.64
B	8.05	8.50	9.40	10.65	16.15	18.47	21.03	29.73

~~*Commercial Base Balloon Price*~~

~~In Zones 1-4 (including local), parcels weighing less than 20 pounds but measuring more than 84 inches in combined length and girth (but not more than 108 inches) are charged the applicable price for a 20-pound parcel.~~

Commercial Base Dimensional Weight

In Zones ~~5-8~~1-9 (including local), parcels exceeding one cubic foot are priced at the actual weight or the dimensional weight, whichever is greater.

For box-shaped parcels, the dimensional weight (pounds) is calculated by multiplying the length (inches) times the width (inches) times the height (inches) of the parcel, and dividing by ~~194~~166.

For irregular-shaped parcels (parcels not appearing box-shaped), the dimensional weight (pounds) is calculated by multiplying the length (inches) times the width (inches) times the height (inches) at the associated maximum cross-sections of the parcel, dividing by ~~194~~166, and multiplying by an adjustment factor of 0.785.

COMMERCIAL PLUS PRIORITY MAIL ZONE/WEIGHT

Maximum weight (pounds)	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
0.5	6.95	7.28	7.49	7.65	7.82	7.99	8.25	9.91
1	6.95	7.28	7.49	7.65	7.82	7.99	8.25	9.91
2	7.42	7.61	7.88	8.50	9.70	10.23	10.86	15.17
3	7.61	7.99	8.34	9.26	11.80	13.10	15.28	20.58
4	7.71	8.20	8.81	10.03	13.75	15.59	17.61	24.78
5	7.81	8.25	9.12	10.33	15.67	17.92	20.40	28.84
6	7.91	8.29	9.22	13.77	17.93	20.83	23.81	33.05
7	8.15	9.41	9.46	15.43	19.86	23.48	26.75	37.11
8	8.20	9.87	11.16	16.84	21.82	25.85	30.04	41.66
9	9.01	10.25	11.62	18.06	23.74	28.00	33.40	46.33
10	9.38	10.67	11.69	19.51	25.64	30.79	36.32	50.38
11	10.67	12.77	13.69	21.31	27.52	33.51	39.34	55.04
12	11.32	13.58	15.93	22.81	30.01	36.23	42.20	59.01
13	11.91	14.36	16.68	24.03	32.21	37.69	43.69	61.12
14	12.52	15.15	17.57	25.43	34.02	39.79	45.86	64.15
15	13.01	15.94	18.42	26.74	35.33	40.56	47.06	65.84
16	13.45	16.79	19.42	28.07	37.34	42.84	49.65	69.46
17	13.88	17.57	20.35	29.44	39.23	45.07	52.29	73.12
18	14.15	18.11	21.26	30.76	41.31	47.29	54.91	76.81
19	14.48	18.53	21.75	31.57	43.16	49.49	57.51	80.45
20	15.05	18.82	22.19	32.15	44.28	51.34	60.18	84.16
21	15.71	19.27	22.70	32.72	44.63	51.82	60.95	85.96
22	16.21	19.79	23.46	33.37	44.93	52.22	61.65	86.96
23	16.69	20.26	24.02	33.98	45.18	52.58	62.02	87.47
24	17.37	21.12	25.38	35.32	46.13	53.95	63.53	89.61
25	18.04	21.87	26.99	36.50	46.81	55.30	64.64	91.15
26	19.13	23.45	29.81	38.45	47.95	56.66	66.66	94.00
27	20.27	24.50	31.63	41.91	48.60	57.98	69.16	97.56
28	20.89	24.83	32.52	43.00	49.26	59.33	71.76	101.22
29	21.53	25.08	33.40	43.57	50.08	60.69	73.69	103.92
30	22.17	25.45	34.19	44.17	51.49	62.02	75.27	106.17
31	22.79	25.70	34.72	44.73	52.23	63.39	76.81	109.22
32	23.06	26.24	35.30	45.25	52.92	64.76	78.38	111.44
33	23.41	26.97	36.18	45.85	53.94	66.09	79.82	113.50
34	23.63	27.67	37.09	46.84	55.22	67.45	81.32	115.65
35	23.89	28.33	37.63	47.83	56.70	68.80	82.72	117.62
36	24.19	29.15	38.12	48.87	58.13	69.74	84.12	119.63

COMMERCIAL PLUS PRIORITY MAIL ZONE/WEIGHT—Continued

Maximum weight (pounds)	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
37	24.44	29.69	38.67	49.74	59.65	70.63	85.50	121.60
38	24.68	30.41	39.16	50.73	61.31	71.44	86.86	123.54
39	24.92	31.12	39.61	51.78	62.76	73.32	88.21	125.45
40	25.18	31.78	40.12	52.86	63.77	74.96	89.41	127.15
41	25.45	32.31	40.55	53.33	64.84	76.56	90.70	130.01
42	25.64	32.55	40.91	54.22	65.98	77.61	91.94	131.78
43	25.93	32.79	41.27	55.12	67.56	78.57	93.12	133.47
44	26.11	33.03	41.63	56.01	68.64	79.50	94.17	135.01
45	26.28	33.26	42.00	56.91	69.39	80.36	95.36	136.71
46	26.51	33.50	42.36	57.80	70.17	81.23	96.51	138.34
47	26.71	33.74	42.72	58.70	70.90	82.16	97.58	139.89
48	26.93	33.98	43.08	59.59	71.81	82.94	98.62	141.41
49	27.14	34.21	43.45	60.49	72.79	83.81	99.62	142.79
50	27.25	34.45	43.81	61.38	73.81	84.88	100.66	144.32
51	27.65	34.69	44.16	62.43	74.82	86.09	101.60	146.83
52	28.07	34.93	44.52	62.87	75.55	87.39	102.80	148.54
53	28.59	35.16	44.89	63.38	76.19	88.82	104.11	150.44
54	29.00	35.41	45.24	63.93	76.73	90.09	105.57	152.55
55	29.46	35.64	45.61	64.34	77.36	91.52	106.99	154.60
56	29.86	35.88	45.97	64.82	77.88	92.81	108.08	156.20
57	30.34	36.11	46.34	65.21	78.47	94.22	109.04	157.60
58	30.79	36.35	46.69	65.62	78.93	95.47	109.94	158.87
59	31.23	36.59	47.05	66.02	79.38	96.12	110.75	160.06
60	31.63	36.82	47.41	66.38	79.78	96.68	111.54	161.18
61	32.14	37.06	47.78	66.72	80.22	97.24	113.04	163.37
62	32.53	37.30	48.13	67.01	80.60	97.67	114.84	165.95
63	33.12	37.54	48.50	67.36	81.06	98.14	116.68	168.61
64	33.41	37.77	48.86	67.66	81.42	98.59	118.47	171.21
65	33.90	38.01	49.23	67.87	81.65	99.08	120.32	173.89
66	34.34	38.25	49.58	68.18	82.07	99.38	122.07	176.41
67	34.85	38.49	50.42	68.42	82.33	99.78	123.69	178.73
68	35.26	38.72	51.06	68.61	83.36	100.30	125.00	180.63
69	35.74	38.96	51.71	68.81	84.36	100.77	126.32	182.56
70	36.11	39.20	52.52	69.03	85.38	101.13	127.68	184.51

Commercial Plus Flat Rate Envelope

	($)
Commercial Plus Regular Flat Rate Envelope, per piece	6.95
Commercial Plus ~~Padded~~Legal Flat Rate Envelope, per piece	7.25
Commercial Plus ~~Legal~~Padded Flat Rate Envelope, per piece	7.55

Commercial Plus Flat Rate Box

Size	Delivery to Domestic Address ($)	Delivery to APO/FPO/DPO Address ($)
Small Flat Rate Box	7.50	7.50
Medium Flat Rate Boxes	12.80	12.80
Large Flat Rate Boxes	17.60	16.10

Commercial Plus Regional Rate Boxes

Maximum Cubic Feet	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
A	7.65	7.85	8.12	8.76	10.00	10.55	11.20	15.64
B	8.05	8.50	9.40	10.65	16.15	18.47	21.03	29.73

~~*Commercial Plus Balloon Price*~~

~~In Zones 1-4 (including local), parcels weighing less than 20 pounds but measuring more than 84 inches in combined length and girth (but not more than 108 inches) are charged the applicable price for a 20-pound parcel.~~

Commercial Plus Dimensional Weight

In Zones ~~5-8~~1-9 (including local), parcels exceeding one cubic foot are priced at the actual weight or the dimensional weight, whichever is greater.

For box-shaped parcels, the dimensional weight (pounds) is calculated by multiplying the length (inches) times the width (inches) times the height (inches) of the parcel, and dividing by ~~194~~166.

For irregular-shaped parcels (parcels not appearing box-shaped), the dimensional weight (pounds) is calculated by multiplying the length (inches) times the width (inches) times the height (inches) at the associated maximum cross-sections of the parcel, dividing by ~~194~~166, and multiplying by an adjustment factor of 0.785.

COMMERCIAL PLUS CUBIC

Maximum cubic feet	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
0.10	6.95	7.28	7.49	7.65	7.82	7.99	8.25	9.91
0.20	7.34	7.68	7.91	8.12	8.40	8.61	8.92	10.92
0.30	7.79	7.99	8.27	8.92	10.18	10.73	11.39	15.90
0.40	7.95	8.27	8.63	9.50	11.79	12.94	14.79	20.09
0.50	8.07	8.56	9.13	10.34	13.95	15.75	17.91	24.96

OPEN AND DISTRIBUTE (PMOD)

Container	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
a. DDU								
Half Tray	8.24	10.09	12.19	19.61	19.87	21.60	23.98	29.98
Full Tray	11.20	14.01	16.31	28.55	32.81	34.86	38.90	48.62
EMM Tray	12.84	15.30	18.90	31.58	34.67	38.07	42.33	52.91
Flat Tub	18.35	23.00	28.44	48.10	58.06	62.77	69.86	87.33
b. Processing Facilities								
Half Tray	6.53	8.27	10.16	17.71	18.10	19.80	21.25	26.57
Full Tray	8.45	10.89	13.56	24.74	29.24	31.30	34.98	43.73
EMM Tray	10.08	11.68	15.91	27.31	31.02	34.16	39.47	49.34
Flat Tub	14.42	19.06	24.15	44.10	53.86	58.63	64.49	80.62

Pickup On Demand Service

Add ~~$22.00~~$23.00 for each Pickup On Demand stop.

IMpb-Noncompliance Fee

Add $0.20 for each IMpb-noncompliant parcel paying commercial prices.

2115 Parcel Select 2115.2 Size and Weight Limitations

* * *

PARCEL SELECT

	Length	Height	Thickness	Weight
Minimum	large enough to accommodate postage, address, and other required elements on the address side			none.
Maximum	130 inches in combined length and girth			70 pounds.[1]

[1] An overweight item charge, as described in the Domestic Mail Manual, applies to pieces found in the postal network that exceed the 70-pound maximum weight limitation. Such items are nonmailable and will not be delivered.

LIGHTWEIGHT

	Length	Height	Thickness	Weight
Minimum	large enough to accommodate postage, address, and other required elements on the address side			none.
Maximum	108 inches in combined length and girth			<16 ounces.

* * *

2115.4 Price Categories

Destination Entered

- DDU – Entered at a designated destination delivery unit, or other equivalent facility
  - DDU
  - ~~Balloon Price~~Dimensional Weight
  - Oversized
  - Forwarding and Returns

- DSCF – Entered at a designated destination processing and distribution center or facility, or other equivalent facility
  - Machinable — 5-Digit
  - Nonmachinable — 3-Digit, 5-Digit
  - ~~Balloon Price~~Dimensional Weight
  - Oversized
  - Forwarding and Returns

- DNDC – Entered at a designated destination network distribution center, auxiliary service facility, or other equivalent facility
  - Machinable
  - Nonmachinable
  - ~~Balloon Price~~Dimensional Weight
  - Oversized
  - Forwarding and Returns

Non-Destination Entered

- Parcel Select Ground
  - Parcel Select Ground
  - ~~Balloon Price~~Dimensional Weight
  - Oversized
  - Forwarding and Returns

- Parcel Select Lightweight
  - 5-Digit
    DDU, DSCF, and DNDC entry levels
    Commercial eligible
  - SCF
    DNDC and Origin entry levels
    Commercial eligible
  - NDC
    DNDC and Origin entry levels
    Commercial eligible
  - Mixed NDC/Single-Piece
    Origin entry level
    Commercial eligible

2115.5 Optional Features

The following additional postal services may be available in conjunction with the product specified in this section:

- *Forwarding and Return Service*
- Pickup On Demand Service
- Ancillary Services (1505)
  - Address Correction Service (1505.1)
  - Certificate of Mailing (1505.6)
  - Collect On Delivery (1505.7)
  - USPS Tracking (1505.8)
  - Insurance (1505.9)
  - Return Receipt (1505.13)
  - Return Receipt for Merchandise (1505.14)
  - Signature Confirmation (1505.17)
  - Special Handling (1505.18)
- Competitive Ancillary Services (2545)
  - Adult Signature (2545.1)
  - Package Intercept Service (2545.2)

2115.6 Prices

DESTINATION ENTERED—DDU

Maximum weight (pounds)	DDU ($)
a. DDU	
1	3.13
2	3.23
3	3.33
4	3.43
5	3.53
6	3.62
7	3.71
8	3.80
9	3.89
10	3.97
11	4.05
12	4.13
13	4.21
14	4.29
15	4.37
16	4.45
17	4.53
18	4.61
19	4.69
20	4.77
21	6.00
22	6.00
23	6.00
24	6.00
25	6.00
26	6.00
27	6.00
28	6.00
29	6.00
30	6.00
31	6.00
32	6.00
33	6.00
34	6.00
35	6.00
36	6.03
37	6.10
38	6.17
39	6.24
40	6.31
41	6.38
42	6.45
43	6.52
44	6.59
45	6.66
46	6.73
47	6.80
48	6.87
49	6.94
50	7.01
51	7.08
52	7.15
53	7.22
54	7.29
55	7.36
56	7.43
57	7.50
58	7.57
59	7.64
60	7.72

DESTINATION ENTERED—DDU—Continued

Maximum weight (pounds)	DDU ($)
61	7.80
62	7.88
63	7.96
64	8.04
65	8.12
66	8.20
67	8.28
68	8.36
69	8.44
70	8.52
Oversized	11.77

b. ~~Balloon Price~~Dimensional Weight

~~Pieces exceeding 84 inches in length and girth combined (but not more than 108 inches) and weighing less than 20 pounds are subject to a price equal to that for a 20-pound parcel for the zone to which the parcel is addressed.~~Parcels exceeding one cubic foot are priced at the actual weight or the dimensional weight, whichever is greater.

For box-shaped parcels, the dimensional weight (pounds) is calculated by multiplying the length (inches) times the width (inches) times the height (inches) of the parcel, and dividing by 166.

For irregular-shaped parcels (parcels not appearing box-shaped), the dimensional weight (pounds) is calculated by multiplying the length (inches) times the width (inches) times the height (inches) at the associated maximum cross-sections of the parcel, dividing by 166, and multiplying by an adjustment factor of 0.785.

c. Oversized Pieces

Regardless of weight, any piece that measures more than 108 inches (but not more than 130 inches) in length plus girth must pay the oversized price. As stated in the Domestic Mail Manual, any piece that is found to be over the 70 pound maximum weight limitation is nonmailable and will not be delivered.

d. Forwarding and Returns

Parcel Select pieces that are forwarded on request of the addressee or forwarded or returned on request of the mailer will be subject to the applicable Parcel Select Ground price, plus $3.00, when forwarded or returned. For customers using Address Correction Service with Shipper Paid Forwarding/Return, and also using an IMpb, the additional fee will be $2.50.

a. DSCF—5-Digit Machinable

DESTINATION ENTERED—DSCF

Maximum weight (pounds)	DSCF 5-digit ($)
1	4.28
2	4.46
3	4.63
4	4.80
5	4.97
6	5.14
7	5.31
8	5.48
9	5.65
10	5.82
11	5.99
12	6.16
13	6.33
14	6.50
15	6.67
16	6.84
17	7.01
18	7.18
19	7.35
20	7.52
21	7.69
22	7.86
23	8.03
24	8.20
25	8.37
26	8.54
27	8.71
28	8.88
29	9.05
30	9.23
31	9.41
32	9.59
33	9.77
34	9.95
35	10.13

b. DSCF—3-Digit, 5-Digit Non-Machinable

Maximum weight (pounds)	DSCF 3-digit ($)	DSCF 5-digit ($)
1	6.28	4.28
2	6.46	4.46
3	6.63	4.63
4	6.80	4.80
5	6.97	4.97
6	7.14	5.14
7	7.31	5.31
8	7.48	5.48
9	7.65	5.65
10	7.82	5.82
11	7.99	5.99
12	8.16	6.16
13	8.33	6.33
14	8.50	6.50
15	8.67	6.67
16	8.84	6.84
17	9.01	7.01
18	9.18	7.18
19	9.35	7.35
20	9.52	7.52
21	9.69	7.69
22	9.86	7.86
23	10.03	8.03
24	10.20	8.20
25	10.37	8.37
26	10.54	8.54
27	10.71	8.71
28	10.88	8.88

Maximum weight (pounds)	DSCF 3-digit ($)	DSCF 5-digit ($)
29	11.05	9.05
30	11.23	9.23
31	11.41	9.41
32	11.59	9.59
33	11.77	9.77
34	11.95	9.95
35	12.13	10.13
36	12.31	10.31
37	12.49	10.49
38	12.67	10.67
39	12.85	10.85
40	13.03	11.03
41	13.21	11.21
42	13.39	11.39
43	13.57	11.57
44	13.75	11.75
45	13.93	11.93
46	14.11	12.11
47	14.29	12.29
48	14.47	12.47
49	14.65	12.65
50	14.83	12.83
51	15.01	13.01
52	15.19	13.19
53	15.37	13.37
54	15.55	13.55
55	15.73	13.73
56	15.91	13.91
57	16.09	14.09
58	16.27	14.27
59	16.45	14.45
60	16.63	14.63
61	16.81	14.81
62	16.99	14.99
63	17.17	15.17
64	17.35	15.35
65	17.53	15.53
66	17.71	15.71
67	17.89	15.89
68	18.07	16.07
69	18.25	16.25
70	18.43	16.43
Oversized	23.40	23.40

c. ~~Balloon Price~~Dimensional Weight

~~Pieces exceeding 84 inches in length and girth combined (but not more than 108 inches) and weighing less than 20 pounds are subject to a price equal to that for a 20-pound parcel for the zone to which the parcel is addressed.~~Parcels exceeding one cubic foot are priced at the actual weight or the dimensional weight, whichever is greater.

For box-shaped parcels, the dimensional weight (pounds) is calculated by multiplying the length (inches) times the width (inches) times the height (inches) of the parcel, and dividing by 166.

For irregular-shaped parcels (parcels not appearing box-shaped), the dimensional weight (pounds) is calculated by multiplying the length (inches) times the width (inches) times the height (inches) at the associated maximum cross-sections of the parcel, dividing by 166, and multiplying by an adjustment factor of 0.785.

d. Oversized Pieces

Regardless of weight, any piece that measures more than 108 inches (but not more than 130 inches) in length plus girth must pay the oversized price. As stated in the Domestic Mail Manual, any piece that is found to be over the 70 pound maximum weight limitation is nonmailable and will not be delivered.

e. Forwarding and Returns

Parcel Select pieces that are forwarded on request of the addressee or forwarded or returned on request of the mailer will be subject to the applicable Parcel Select Ground price, plus $3.00, when forwarded or returned. For customers using Address Correction Service with Shipper Paid Forwarding/Return, and also using an IMpb, the additional fee will be $2.50.

a. DNDC—Machinable

DESTINATION ENTERED—DNDC

Maximum weight (pounds)	DNDC Zones 1 & 2 ($)	DNDC Zone 3 ($)	DNDC Zone 4 ($)	DNDC Zone 5 ($)
1	5.81	6.62	7.55	8.66
2	6.08	7.09	8.17	9.32
3	6.35	7.56	8.79	9.98
4	6.62	8.03	9.41	10.64
5	6.89	8.50	10.03	11.30
6	7.17	8.99	10.65	11.99
7	7.45	9.48	11.27	12.68
8	7.73	9.97	11.89	13.37
9	8.01	10.46	12.51	14.06
10	8.29	10.95	13.13	14.75
11	8.57	11.44	13.71	15.40
12	8.85	11.93	14.29	16.05
13	9.13	12.42	14.87	16.70
14	9.41	12.91	15.45	17.35
15	9.69	13.40	16.03	17.95
16	9.97	13.88	16.48	18.50
17	10.25	14.36	16.93	19.05

DESTINATION ENTERED—DNDC—Continued

Maximum weight (pounds)	DNDC Zones 1 & 2 ($)	DNDC Zone 3 ($)	DNDC Zone 4 ($)	DNDC Zone 5 ($)
18	10.53	14.84	17.38	19.60
19	10.81	15.32	17.83	20.15
20	11.09	15.78	18.28	20.65
21	11.37	16.22	18.69	21.15
22	11.65	16.66	19.10	21.65
23	11.93	17.10	19.51	22.15
24	12.21	17.54	19.92	22.65
25	12.49	17.92	20.33	23.10
26	12.77	18.30	20.72	23.50
27	13.05	18.68	21.11	23.90
28	13.33	19.06	21.50	24.30
29	13.61	19.44	21.89	24.70
30	13.89	19.77	22.28	25.10
31	14.17	20.10	22.64	25.50
32	14.45	20.43	23.00	25.90
33	14.73	20.76	23.36	26.30
34	15.01	21.09	23.72	26.70
35	15.29	21.42	24.08	27.10

b. DNDC—Non-Machinable

Maximum weight (pounds)	DNDC Zones 1 & 2 ($)	DNDC Zone 3 ($)	DNDC Zone 4 ($)	DNDC Zone 5 ($)
1	8.81	9.62	10.55	11.66
2	9.08	10.09	11.17	12.32
3	9.35	10.56	11.79	12.98
4	9.62	11.03	12.41	13.64
5	9.89	11.50	13.03	14.30
6	10.17	11.99	13.65	14.99
7	10.45	12.48	14.27	15.68
8	10.73	12.97	14.89	16.37
9	11.01	13.46	15.51	17.06
10	11.29	13.95	16.13	17.75
11	11.57	14.44	16.71	18.40
12	11.85	14.93	17.29	19.05
13	12.13	15.42	17.87	19.70
14	12.41	15.91	18.45	20.35
15	12.69	16.40	19.03	20.95
16	12.97	16.88	19.48	21.50
17	13.25	17.36	19.93	22.05
18	13.53	17.84	20.38	22.60
19	13.81	18.32	20.83	23.15
20	14.09	18.78	21.28	23.65
21	14.37	19.22	21.69	24.15
22	14.65	19.66	22.10	24.65
23	14.93	20.10	22.51	25.15
24	15.21	20.54	22.92	25.65
25	15.49	20.92	23.33	26.10
26	15.77	21.30	23.72	26.50
27	16.05	21.68	24.11	26.90
28	16.33	22.06	24.50	27.30
29	16.61	22.44	24.89	27.70
30	16.89	22.77	25.28	28.10
31	17.17	23.10	25.64	28.50
32	17.45	23.43	26.00	28.90
33	17.73	23.76	26.36	29.30
34	18.01	24.09	26.72	29.70
35	18.29	24.42	27.08	30.10
36	18.57	24.75	27.43	30.50
37	18.85	25.08	27.78	30.90
38	19.13	25.41	28.13	31.30
39	19.41	25.74	28.48	31.70
40	19.69	26.07	28.83	32.08
41	19.97	26.40	29.17	32.46
42	20.25	26.73	29.51	32.84
43	20.53	27.06	29.85	33.22
44	20.81	27.39	30.19	33.60

Maximum weight (pounds)	DNDC Zones 1 & 2 ($)	DNDC Zone 3 ($)	DNDC Zone 4 ($)	DNDC Zone 5 ($)
45	21.09	27.72	30.53	33.98
46	21.37	28.05	30.87	34.36
47	21.65	28.38	31.21	34.74
48	21.93	28.71	31.55	35.12
49	22.21	29.04	31.89	35.50
50	22.48	29.36	32.23	35.86
51	22.75	29.68	32.55	36.22
52	23.02	30.00	32.87	36.58
53	23.29	30.32	33.19	36.94
54	23.56	30.64	33.51	37.30
55	23.83	30.95	33.83	37.66
56	24.10	31.25	34.15	38.02
57	24.37	31.55	34.47	38.38
58	24.64	31.85	34.79	38.74
59	24.91	32.15	35.11	39.10
60	25.18	32.45	35.43	39.44
61	25.45	32.75	35.73	39.78
62	25.72	33.05	36.03	40.12
63	25.99	33.35	36.33	40.46
64	26.26	33.65	36.63	40.80
65	26.53	33.95	36.93	41.14
66	26.80	34.24	37.23	41.46
67	27.07	34.53	37.53	41.78
68	27.34	34.82	37.83	42.10
69	27.61	35.11	38.13	42.42
70	27.88	35.40	38.43	42.74
Oversized	36.71	50.14	58.85	70.64

c. ~~Balloon Price~~Dimensional Weight

~~Pieces exceeding 84 inches in length and girth combined (but not more than 108 inches) and weighing less than 20 pounds are subject to a price equal to that for a 20-pound parcel for the zone to which the parcel is addressed.~~Parcels exceeding one cubic foot are priced at the actual weight or the dimensional weight, whichever is greater.

For box-shaped parcels, the dimensional weight (pounds) is calculated by multiplying the length (inches) times the width (inches) times the height (inches) of the parcel, and dividing by 166.

For irregular-shaped parcels (parcels not appearing box-shaped), the dimensional weight (pounds) is calculated by multiplying the length (inches) times the width (inches) times the height (inches) at the associated maximum cross-sections of the parcel, dividing by 166, and multiplying by an adjustment factor of 0.785.

d. Oversized Pieces

Regardless of weight, any piece that measures more than 108 inches (but not more than 130 inches) in length plus girth must pay the oversized price. As stated in the Domestic Mail Manual, any piece that is found to be over the 70 pound maximum weight limitation is nonmailable and will not be delivered.

e. Forwarding and Returns

Parcel Select pieces that are forwarded on request of the addressee or forwarded or returned on request of the mailer will be subject to the applicable Parcel Select Ground price, plus $3.00, when forwarded or returned. For customers using Address Correction Service with Shipper Paid Forwarding/Return, and also using an IMpb, the additional fee will be $2.50.

a. Parcel Select Ground

NON-DESTINATION ENTERED—PARCEL SELECT GROUND

Maximum weight (pounds)	Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)
1	6.85	7.18	7.39	7.50	7.62	7.74	7.95
2	7.32	7.51	7.78	8.35	9.50	9.98	10.56
3	7.51	7.89	8.24	9.06	11.55	12.80	14.93
4	7.61	8.10	8.71	9.83	13.50	15.29	17.26
5	7.71	8.15	9.02	10.13	15.42	17.62	20.05
6	7.81	8.19	9.12	13.57	17.68	20.53	23.46
7	8.05	9.31	9.36	15.23	19.61	23.18	26.40
8	8.10	9.77	11.06	16.64	21.57	25.55	29.69
9	8.91	10.15	11.52	17.86	23.49	27.70	33.05
10	9.28	10.57	11.59	19.31	25.39	30.49	35.97
11	10.57	12.67	13.59	21.11	27.27	33.21	38.99
12	11.22	13.48	15.83	22.61	29.76	35.93	41.85
13	11.81	14.26	16.58	23.83	31.96	37.39	43.34
14	12.42	15.05	17.47	25.23	33.77	39.49	45.51
15	12.91	15.84	18.32	26.54	35.08	40.26	46.71
16	13.35	16.69	19.32	27.87	37.09	42.54	49.30
17	13.78	17.47	20.25	29.24	38.98	44.77	51.94
18	14.05	18.01	21.16	30.56	41.06	46.99	54.56

NON-DESTINATION ENTERED—PARCEL SELECT GROUND—Continued

Maximum weight (pounds)	Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)
19	14.38	18.43	21.65	31.37	42.91	49.19	57.16
20	14.95	18.72	22.09	31.95	44.03	51.04	59.83
21	15.61	19.17	22.60	32.52	44.38	51.52	60.60
22	16.11	19.69	23.36	33.17	44.68	51.92	61.30
23	16.59	20.16	23.92	33.78	44.93	52.28	61.67
24	17.27	21.02	25.28	35.12	45.88	53.65	63.18
25	17.94	21.77	26.89	36.30	46.56	55.00	64.29
26	19.03	23.35	29.71	38.25	47.70	56.36	66.31
27	20.17	24.40	31.53	41.71	48.35	57.68	68.81
28	20.79	24.73	32.42	42.80	49.01	59.03	71.41
29	21.43	24.98	33.30	43.37	49.83	60.39	73.34
30	22.07	25.35	34.09	43.97	51.24	61.72	74.92
31	22.69	25.60	34.62	44.53	51.98	63.09	76.46
32	22.96	26.14	35.20	45.05	52.67	64.46	78.03
33	23.31	26.87	36.08	45.65	53.69	65.79	79.47
34	23.53	27.57	36.99	46.64	54.97	67.15	80.97
35	23.79	28.23	37.53	47.63	56.45	68.50	82.37
36	24.09	29.05	38.02	48.67	57.88	69.44	83.77
37	24.34	29.59	38.57	49.54	59.40	70.33	85.15
38	24.58	30.31	39.06	50.53	61.06	71.14	86.51
39	24.82	31.02	39.51	51.58	62.51	73.02	87.86
40	25.08	31.68	40.02	52.66	63.52	74.66	89.06
41	25.35	32.21	40.45	53.13	64.59	76.26	90.35
42	25.54	32.45	40.81	54.02	65.73	77.31	91.59
43	25.83	32.69	41.17	54.92	67.31	78.27	92.77
44	26.01	32.93	41.53	55.81	68.39	79.20	93.82
45	26.18	33.16	41.90	56.71	69.14	80.06	95.01
46	26.41	33.40	42.26	57.60	69.92	80.93	96.16
47	26.61	33.64	42.62	58.50	70.65	81.86	97.23
48	26.83	33.88	42.98	59.39	71.56	82.64	98.27
49	27.04	34.11	43.35	60.29	72.54	83.51	99.27
50	27.15	34.35	43.71	61.18	73.56	84.58	100.31
51	27.55	34.59	44.06	62.23	74.57	85.79	101.25
52	27.97	34.83	44.42	62.67	75.30	87.09	102.45
53	28.49	35.06	44.79	63.18	75.94	88.52	103.76
54	28.90	35.31	45.14	63.73	76.48	89.79	105.22
55	29.36	35.54	45.51	64.14	77.11	91.22	106.64
56	29.76	35.78	45.87	64.62	77.63	92.51	107.73
57	30.24	36.01	46.24	65.01	78.22	93.92	108.69
58	30.69	36.25	46.59	65.42	78.68	95.17	109.59
59	31.13	36.49	46.95	65.82	79.13	95.82	110.40
60	31.53	36.72	47.31	66.18	79.53	96.38	111.19
61	32.04	36.96	47.68	66.52	79.97	96.94	112.69
62	32.43	37.20	48.03	66.81	80.35	97.37	114.49
63	33.02	37.44	48.40	67.16	80.81	97.84	116.33
64	33.31	37.67	48.76	67.46	81.17	98.29	118.12
65	33.80	37.91	49.13	67.67	81.40	98.78	119.97
66	34.24	38.15	49.48	67.98	81.82	99.08	121.72
67	34.75	38.39	50.32	68.22	82.08	99.48	123.34
68	35.16	38.62	50.96	68.41	83.11	100.00	124.65
69	35.64	38.86	51.61	68.61	84.11	100.47	125.97
70	36.01	39.10	52.42	68.83	85.13	100.83	127.33
Oversized	74.73	80.59	103.05	121.34	142.41	163.47	196.61

b. ~~Balloon Price~~Dimensional Weight

~~Pieces exceeding 84 inches in length and girth combined (but not more than 108 inches) and weighing less than 20 pounds are subject to a price equal to that for a 20-pound parcel for the zone to which the parcel is addressed.~~Parcels exceeding one cubic foot are priced at the actual weight or the dimensional weight, whichever is greater.

For box-shaped parcels, the dimensional weight (pounds) is calculated by multiplying the length (inches) times the width (inches) times the height (inches) of the parcel, and dividing by 166.

For irregular-shaped parcels (parcels not appearing box-shaped), the dimensional weight (pounds) is calculated by multiplying the length (inches) times the width (inches) times the height (inches) at the associated maximum cross-sections of the parcel, dividing by 166, and multiplying by an adjustment factor of 0.785.

c. Oversized Pieces

Regardless of weight, any piece that measures more than 108 inches (but not more than 130 inches) in length plus girth must pay the oversized price. As stated in the Domestic Mail Manual, any piece that is found to be over the 70 pound maximum weight limitation is nonmailable and will not be delivered.

d. Forwarding and Returns

Parcel Select pieces that are forwarded on request of the addressee or forwarded or returned on request of the mailer will be subject to the applicable Parcel Select Ground price, plus $3.00, when forwarded or returned. For customers using Address Correction Service with Shipper Paid Forwarding/Return, and also using an IMpb, the additional fee will be $2.50.

PARCEL SELECT LIGHTWEIGHT

Maximum weight (ounces)	Entry point/sortation level							
	DDU/5-digit ($)	DSCF/5-digit ($)	DNDC/5-digit ($)	DSCF/SCF ($)	DNDC/SCF ($)	DNDC/NDC ($)	None/NDC ($)	None/mixed NDC/single-piece ($)
1	1.73	2.02	2.23	2.24	2.60	2.84	3.20	3.57
2	1.73	2.02	2.23	2.24	2.60	2.84	3.20	3.57
3	1.73	2.02	2.23	2.24	2.60	2.84	3.20	3.57
4	1.73	2.02	2.23	2.24	2.60	2.84	3.20	3.57
5	1.78	2.10	2.33	2.35	2.77	3.03	3.41	3.80
6	1.78	2.10	2.33	2.35	2.77	3.03	3.41	3.80
7	1.78	2.10	2.33	2.35	2.77	3.03	3.41	3.80
8	1.78	2.10	2.33	2.35	2.77	3.03	3.41	3.80
9	1.83	2.24	2.72	2.75	3.23	3.53	3.93	4.34
10	1.83	2.24	2.72	2.75	3.23	3.53	3.93	4.34
11	1.83	2.24	2.72	2.75	3.23	3.53	3.93	4.34
12	1.83	2.24	2.72	2.75	3.23	3.53	3.93	4.34
13	2.02	2.52	3.16	3.22	3.73	4.05	4.47	4.90
14	2.02	2.52	3.16	3.22	3.73	4.05	4.47	4.90
15	2.02	2.52	3.16	3.22	3.73	4.05	4.47	4.90
15.999	2.02	2.52	3.16	3.22	3.73	4.05	4.47	4.90

Forwarding and Return Service

If Forwarding Service is used in conjunction with electronic Address Correction Service, forwarded Parcel Select Lightweight parcels pay $4.53 per piece. All other Parcel Select Lightweight pieces requesting Forwarding and Return Service that are returned are charged the appropriate First-Class Package Service or Priority Mail price for the piece multiplied by a factor of 2.472.

Pickup On Demand Service

Add ~~$22.00~~$23.00 for each Pickup On Demand stop.

IMpb Noncompliance Fee

Add $0.20 for each IMpb-noncompliant parcel paying commercial prices.

2120 Parcel Return Service

2120.2 Size and Weight Limitations

* * *

	Length	Height	Thickness	Weight
Minimum	large enough to accommodate postage, address, and other required elements on the address side.			none.
Maximum	130 inches in combined length and girth.			70 pounds. [1]

1. An overweight item charge, as described in the Domestic Mail Manual, applies to pieces found in the postal network that exceed the 70-pound maximum weight limitation. Such items are nonmailable and will not be delivered.

* * *

2120.6 Prices

a. Machinable RSCF

2120.6 Prices

a. Machinable RSCF

RSCF ENTERED

Maximum weight (pounds)	RSCF ($)
1	3.65
2	4.12
3	4.43
4	4.76
5	5.12
6	5.63
7	6.02
8	6.51
9	6.96
10	7.45
11	7.89
12	8.44
13	8.82
14	9.12
15	9.46
16	9.77
17	10.12
18	10.41
19	10.69
20	11.05
21	11.33
22	11.68
23	11.90
24	12.28
25	12.53
26	12.69

RSCF ENTERED—Continued

Maximum weight (pounds)	RSCF ($)
27	13.00
28	13.24
29	13.56
30	13.78
31	14.06
32	14.37
33	14.60
34	15.00
35	15.24

b. Nonmachinable RSCF

Maximum weight (pounds)	RSCF ($)
1	6.65
2	7.12
3	7.43
4	7.76
5	8.12
6	8.63
7	9.02
8	9.51
9	9.96
10	10.45
11	10.89
12	11.44
13	11.82
14	12.12
15	12.46
16	12.77
17	13.12
18	13.41
19	13.69
20	14.05
21	14.33
22	14.68
23	14.90
24	15.28
25	15.53
26	15.69
27	16.00
28	16.24
29	16.56
30	16.78
31	17.06
32	17.37
33	17.60
34	18.00
35	18.24
36	18.50
37	18.89
38	19.09
39	19.45
40	19.67
41	19.92
42	20.26
43	20.47
44	20.70
45	20.94
46	21.18
47	21.50
48	21.62
49	21.79
50	22.07
51	22.21
52	22.44
53	22.57
54	22.74
55	23.04

Maximum weight (pounds)	RSCF ($)
56	23.16
57	23.38
58	23.58
59	23.78
60	24.11
61	24.24
62	24.45
63	24.63
64	24.83
65	25.04
66	25.33
67	25.42
68	25.70
69	25.86
70	25.92
Oversized	36.02

c. Balloon Price

RSCF entered pieces exceeding 84 inches in length and girth combined, but not more than 108 inches, and weighing less than 20 pounds are subject to a price equal to that for a 20-pound parcel for the zone to which the parcel is addressed.

d. Oversized Pieces

Regardless of weight, any piece that measures more than 108 inches (but not more than 130 inches) in length plus girth must pay the oversized price. *As stated in the Domestic Mail Manual, any piece that is found to be over the 70 pound maximum weight limitation is nonmailable and will not be delivered.*

a. Machinable RDU

RDU ENTERED

Maximum weight (pounds)	RDU ($)
1	2.90
2	2.99
3	3.07
4	3.16
5	3.24
6	3.33
7	3.41
8	3.49
9	3.58
10	3.66
11	3.75
12	3.83
13	3.92
14	4.00
15	4.08
16	4.17
17	4.25
18	4.34
19	4.42
20	4.51
21	4.59
22	4.67
23	4.76
24	4.84
25	4.93
26	5.01
27	5.10
28	5.18
29	5.27
30	5.35
31	5.43
32	5.52
33	5.60
34	5.69
35	5.77

b. Nonmachinable RDU

Maximum weight (pounds)	RDU ($)
1	2.90
2	2.99
3	3.07
4	3.16
5	3.24
6	3.33
7	3.41
8	3.49
9	3.58
10	3.66
11	3.75
12	3.83
13	3.92
14	4.00
15	4.08
16	4.17
17	4.25
18	4.34
19	4.42
20	4.51
21	4.59
22	4.67
23	4.76
24	4.84
25	4.93
26	5.01
27	5.10
28	5.18
29	5.27
30	5.35
31	5.43
32	5.52
33	5.60
34	5.69
35	5.77
36	5.86
37	5.94
38	6.02
39	6.11
40	6.19
41	6.28
42	6.36
43	6.45
44	6.53
45	6.61
46	6.70
47	6.78
48	6.87
49	6.95
50	7.04
51	7.12
52	7.20
53	7.29
54	7.37
55	7.46
56	7.54
57	7.63
58	7.71
59	7.79
60	7.88
61	7.96
62	8.05
63	8.13
64	8.22
65	8.30
66	8.39
67	8.47
68	8.55
69	8.64
70	8.72
Oversized	10.96

c. Oversized Pieces

Regardless of weight, any piece that measures more than 108 inches (but not more than 130 inches) in length plus girth must pay the oversized price. *As stated in the Domestic Mail Manual, any piece that is found to be over the 70 pound maximum weight limitation is nonmailable and will not be delivered.*

IMpb Noncompliance Fee

Add $0.20 for each IMpb-noncompliant parcel paying commercial prices.

2125 First-Class Package Service

* * *

2125.4 Price Categories

The following price categories are available for the product specified in this section:

- Commercial
  - *Zone/Weight—Prices are based on weight and zone*
- Retail
  - *Zone/Weight—Prices are based on weight and zone*

* * *

2125.6 Prices

COMMERCIAL

Maximum weight (ounces)	*Local, Zones 1 & 2 ($)*	*Zone 3 ($)*	*Zone 4 ($)*	*Zone 5 ($)*	*Zone 6 ($)*	*Zone 7 ($)*	*Zone 8 ($)*
1	*2.66*	*2.68*	*2.70*	*2.76*	*2.84*	*2.96*	*3.09*
2	*2.66*	*2.68*	*2.70*	*2.76*	*2.84*	*2.96*	*3.09*
3	*2.66*	*2.68*	*2.70*	*2.76*	*2.84*	*2.96*	*3.09*
4	*2.66*	*2.68*	*2.70*	*2.76*	*2.84*	*2.96*	*3.09*
5	*3.18*	*3.20*	*3.22*	*3.28*	*3.36*	*3.49*	*3.63*
6	*3.18*	*3.20*	*3.22*	*3.28*	*3.36*	*3.49*	*3.63*
7	*3.18*	*3.20*	*3.22*	*3.28*	*3.36*	*3.49*	*3.63*
8	*3.18*	*3.20*	*3.22*	*3.28*	*3.36*	*3.49*	*3.63*
9	*3.82*	*3.85*	*3.88*	*3.96*	*4.06*	*4.19*	*4.33*
10	*3.82*	*3.85*	*3.88*	*3.96*	*4.06*	*4.19*	*4.33*
11	*3.82*	*3.85*	*3.88*	*3.96*	*4.06*	*4.19*	*4.33*
12	*3.82*	*3.85*	*3.88*	*3.96*	*4.06*	*4.19*	*4.33*
13	*4.94*	*4.98*	*5.02*	*5.12*	*5.24*	*5.38*	*5.53*
14	*4.94*	*4.98*	*5.02*	*5.12*	*5.24*	*5.38*	*5.53*
15	*4.94*	*4.98*	*5.02*	*5.12*	*5.24*	*5.38*	*5.53*
15.999	*4.94*	*4.98*	*5.02*	*5.12*	*5.24*	*5.38*	*5.53*

RETAIL [1]

Maximum weight (ounces)	*Local, Zones 1 & 2 ($)*	*Zone 3 ($)*	*Zone 4 ($)*	*Zone 5 ($)*	*Zone 6 ($)*	*Zone 7 ($)*	*Zone 8 ($)*
1	*3.66*	*3.70*	*3.74*	*3.78*	*3.82*	*3.94*	*4.06*
2	*3.66*	*3.70*	*3.74*	*3.78*	*3.82*	*3.94*	*4.06*
3	*3.66*	*3.70*	*3.74*	*3.78*	*3.82*	*3.94*	*4.06*
4	*3.66*	*3.70*	*3.74*	*3.78*	*3.82*	*3.94*	*4.06*
5	*4.39*	*4.44*	*4.49*	*4.53*	*4.57*	*4.69*	*4.81*
6	*4.39*	*4.44*	*4.49*	*4.53*	*4.57*	*4.69*	*4.81*
7	*4.39*	*4.44*	*4.49*	*4.53*	*4.57*	*4.69*	*4.81*
8	*4.39*	*4.44*	*4.49*	*4.53*	*4.57*	*4.69*	*4.81*
9	*5.19*	*5.24*	*5.30*	*5.35*	*5.40*	*5.53*	*5.66*
10	*5.19*	*5.24*	*5.30*	*5.35*	*5.40*	*5.53*	*5.66*
11	*5.19*	*5.24*	*5.30*	*5.35*	*5.40*	*5.53*	*5.66*
12	*5.19*	*5.24*	*5.30*	*5.35*	*5.40*	*5.53*	*5.66*
13	*5.71*	*5.78*	*5.85*	*5.93*	*5.99*	*6.13*	*6.27*

Notes

1. A handling charge of $0.01 per piece applies to foreign-origin, inbound direct entry mail tendered by foreign postal operators, subject to the terms of an authorization arrangement.

Irregular Parcel Surcharge

Add $0.20 for each irregularly shaped parcel (such as rolls, tubes, and triangles).

IMpb Noncompliance Fee

Add $0.20 for each IMpb-noncompliant parcel paying commercial prices.

Pickup On Demand Service

Add ~~$22.00~~$23.00 for each Pickup On Demand stop.

2135 USPS Retail Ground 2135.2 Size and Weight Limitations

* * *

	Length	Height	Thickness	Weight
Minimum	large enough to accommodate postage, address, and other required elements on the address side			none.
Maximum	130 inches in combined length and girth			70 pounds.[1]

[1] *An overweight item charge, as described in the Domestic Mail Manual, applies to pieces found in the postal network that exceed the 70-pound maximum weight limitation. Such items are nonmailable and will not be delivered.*

* * * 2135.6 Prices

USPS RETAIL GROUND [1]

Maximum weight (pounds)	Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)
1	7.35	7.70	7.85	7.95	8.15	8.55	8.95
2	7.85	8.30	9.45	10.29	11.17	12.08	12.98
3	8.30	9.25	10.50	11.90	12.54	14.32	16.17
4	8.75	10.15	11.10	12.38	14.88	17.32	19.70
5	9.80	10.85	11.60	13.14	16.44	19.73	23.02
6	10.55	11.10	12.30	14.92	18.75	22.43	26.10
7	11.50	12.60	14.80	16.70	20.84	24.97	29.11
8	11.85	13.95	16.45	19.39	23.79	28.19	32.59
9	12.30	15.05	18.20	22.09	26.86	30.90	36.38
10	13.10	16.15	19.60	23.62	28.61	33.59	38.58
11	13.95	17.30	21.05	25.45	31.07	36.69	42.32
12	15.20	18.55	22.60	27.30	33.35	39.40	45.45
13	16.10	19.65	23.90	28.89	34.66	40.44	46.22
14	17.10	20.90	25.40	30.66	36.62	42.58	48.54
15	17.80	22.05	26.85	32.49	38.28	44.07	49.86
16	18.30	23.25	28.30	34.28	40.42	46.55	52.69
17	19.15	24.50	29.80	36.09	42.53	48.98	55.42
18	19.50	25.35	31.05	37.85	44.65	51.44	58.24
19	20.05	25.95	31.75	38.84	45.70	52.55	59.40
20	20.90	26.25	32.25	39.57	47.13	54.69	62.25
21	21.60	26.60	32.70	40.11	47.95	55.79	63.63
22	22.10	27.20	33.50	41.07	49.12	57.17	65.21
23	22.60	27.75	34.05	41.77	49.97	58.17	66.36
24	23.15	28.30	34.85	42.69	51.14	59.59	68.04
25	23.35	28.80	36.25	43.87	52.31	60.74	69.18

USPS RETAIL GROUND [1]—Continued

Maximum weight (pounds)	Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)
26	24.30	29.35	37.60	44.73	53.59	62.44	71.30
27	25.05	29.75	38.75	47.06	56.02	64.98	73.94
28	25.80	30.15	39.90	48.27	57.78	67.28	76.79
29	26.60	30.50	40.90	48.96	58.92	68.88	78.84
30	27.40	30.90	41.85	49.62	59.92	70.21	80.51
31	28.20	31.20	42.55	50.33	60.96	71.60	82.23
32	28.50	31.90	43.25	50.90	61.87	72.83	83.80
33	29.00	32.75	44.35	51.56	62.84	74.13	85.41
34	29.25	33.65	45.45	52.63	64.13	75.62	87.11
35	29.55	34.45	46.05	53.73	65.31	76.89	88.47
36	29.85	35.40	46.70	55.02	66.68	78.35	90.02
37	30.15	36.05	47.35	55.95	67.80	79.65	91.50
38	30.50	36.95	47.95	57.01	68.98	80.95	92.93
39	30.80	37.80	48.55	58.20	70.24	82.29	94.34
40	31.15	38.60	49.20	59.44	71.49	83.55	95.60
41	31.45	39.35	49.75	60.01	72.37	84.73	97.10
42	31.70	40.05	50.30	61.26	73.63	86.00	98.36
43	32.10	40.70	50.75	62.60	74.91	87.21	99.52
44	32.30	41.35	51.40	63.90	76.20	88.49	100.78
45	32.50	41.80	51.75	65.41	77.61	89.81	102.01
46	32.75	42.10	52.30	66.54	78.75	90.96	103.18
47	33.05	42.50	52.80	68.10	80.18	92.27	104.35
48	33.35	42.85	53.30	69.44	81.45	93.46	105.46
49	33.55	43.15	53.70	70.68	82.62	94.55	106.49
50	33.70	43.40	54.10	72.11	83.96	95.82	107.67
51	33.85	43.85	54.60	73.26	85.03	96.81	108.58
52	34.25	44.10	54.95	73.86	85.85	97.84	109.83
53	34.85	44.40	55.30	74.43	86.71	98.99	111.26
54	35.30	44.60	55.70	75.06	87.67	100.29	112.90
55	35.90	44.90	56.00	75.59	88.50	101.42	114.34
56	36.40	45.20	56.30	76.05	89.17	102.30	115.42
57	36.90	45.35	56.65	76.48	89.75	103.01	116.27
58	37.50	45.55	57.00	77.09	90.46	103.83	117.20
59	38.10	45.75	57.30	77.50	91.03	104.55	118.08
60	38.60	45.95	57.85	77.86	91.51	105.16	118.81
61	39.15	46.15	58.90	78.30	92.37	106.45	120.53
62	39.60	46.25	59.60	78.70	93.26	107.82	122.38
63	40.35	46.50	60.60	79.11	94.19	109.27	124.35
64	40.75	46.65	61.50	79.50	95.11	110.72	126.33
65	41.30	46.75	62.30	79.70	95.88	112.06	128.24
66	41.80	46.95	63.30	80.11	96.80	112.46	130.18
67	42.50	47.05	64.40	80.44	97.60	112.86	131.92
68	43.00	47.15	65.20	80.61	98.17	113.25	133.30
69	43.55	47.20	66.00	80.84	98.80	113.66	134.70
70	44.05	47.30	67.05	81.05	99.42	114.06	136.17
Oversized	74.73	80.59	103.05	121.34	142.41	163.47	196.61

Notes

[1] Except for oversized pieces, the Zone 1–4 prices are applicable only to parcels containing hazardous or other material not permitted to travel by air transportation.

Limited Overland Routes

Pieces delivered to or from designated intra-Alaska ZIP Codes not connected by overland routes are eligible for the following prices.

Maximum weight (pounds)	Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)
1	6.72	7.17	7.34	7.57
2	7.29	7.65	8.27	8.87
3	7.56	8.72	9.61	11.66
4	8.32	9.23	10.20	12.00
5	8.48	9.52	10.75	12.60
6	8.64	9.79	11.07	13.31
7	8.97	10.25	11.73	14.17
8	9.28	10.73	12.40	15.20
9	9.60	11.38	13.09	16.23
10	9.92	11.66	13.73	17.08
11	10.28	12.14	14.37	17.99
12	10.59	12.63	15.02	18.89

Maximum weight (pounds)	Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)
13	10.92	13.10	15.67	19.74
14	11.26	13.59	16.32	20.65
15	11.58	14.07	16.97	21.54
16	11.90	14.54	17.61	22.43
17	12.25	15.03	18.28	23.35
18	12.56	15.49	18.91	24.22
19	12.87	15.93	19.46	25.02
20	13.20	16.36	20.03	25.76
21	13.52	16.79	20.58	26.48
22	13.86	17.23	21.17	27.26
23	14.18	17.68	21.72	28.02
24	14.51	18.11	22.30	28.78
25	14.82	18.54	22.93	29.58
26	15.13	18.99	23.62	30.34
27	15.46	19.41	24.21	31.29
28	15.78	19.85	24.84	32.07
29	16.18	20.26	25.43	32.79
30	16.58	20.70	26.02	33.55
31	17.15	21.10	26.59	34.27
32	17.40	21.55	27.15	34.97
33	17.80	22.01	27.75	35.73
34	18.23	22.47	28.36	36.49
35	18.75	22.91	28.93	37.29
36	19.02	23.37	29.48	38.09
37	19.43	23.81	30.03	38.86
38	19.85	24.26	30.60	39.65
39	20.29	24.72	31.16	40.44
40	20.73	25.15	31.85	41.26
41	21.14	25.60	32.38	41.95
42	21.48	26.06	32.97	42.77
43	21.82	26.49	33.49	43.60
44	22.14	26.94	34.05	44.39
45	22.47	27.34	34.58	45.24
46	22.81	27.78	35.16	46.04
47	23.14	28.20	35.70	46.88
48	23.46	28.63	36.24	47.71
49	23.80	29.05	36.79	48.52
50	24.12	29.45	37.32	49.36
51	24.46	29.89	37.88	50.14
52	24.80	30.31	38.41	50.87
53	25.14	30.73	38.95	51.58
54	25.45	31.13	39.48	52.30
55	25.80	31.54	40.02	53.00
56	26.13	31.98	40.53	53.71
57	26.48	32.38	41.08	54.41
58	26.82	32.80	41.60	55.11
59	27.16	33.21	42.14	55.81
60	27.49	33.61	42.70	56.49
61	27.82	34.03	43.30	57.19
62	28.15	34.44	43.86	57.89
63	28.49	34.86	44.47	58.58
64	28.82	35.27	45.05	59.25
65	29.17	35.68	45.63	59.92
66	29.50	36.09	46.23	60.63
67	29.84	36.49	46.83	61.28
68	30.18	36.90	47.41	61.95
69	30.51	37.32	47.99	62.63
70	30.86	38.35	48.93	63.30
Oversized	45.03	52.35	60.78	73.87

Balloon Price

Pieces exceeding 84 inches in length and girth combined (but not more than 108 inches) and weighing less than 20 pounds are subject to a price equal to that for a 20-pound parcel for the zone to which the parcel is addressed.

Oversized Pieces

Regardless of weight, any piece that measures more than 108 inches (but not more than 130 inches) in length plus girth must pay the oversized price. As stated in the Domestic Mail Manual, any piece that is found to be over the 70 pound maximum weight limitation is nonmailable and will not be delivered.

Pickup On Demand Service

Add ~~$22.00~~$23.00 for each Pickup On Demand stop.

IMpb Noncompliance Fee

Add $0.20 for each IMpb-noncompliant parcel paying commercial prices.

2300 International Products

* * *

2305 Outbound International Expedited Services

* * *

2305.6 Prices

GLOBAL EXPRESS GUARANTEED RETAIL PRICES

Maximum weight (pounds)	Country price group							
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)
0.5	67.80	75.50	87.05	142.95	96.45	101.00	75.80	119.20
1	81.10	82.15	98.65	162.80	111.95	114.95	89.70	133.90
2	86.65	89.30	106.05	180.15	119.45	123.85	100.25	149.25
3	92.25	96.50	113.45	197.55	126.95	132.80	110.75	164.60
4	97.80	103.70	120.85	214.90	134.45	141.70	121.30	179.95
5	103.00	110.90	128.20	232.25	141.95	150.65	131.85	195.30
6	108.20	117.55	134.90	249.40	149.45	159.60	138.85	209.95
7	113.40	124.30	141.55	266.55	157.05	168.50	145.80	224.95
8	118.60	131.05	148.20	283.70	164.65	177.45	152.80	239.95
9	123.80	137.80	154.85	300.85	172.25	186.35	159.75	254.95
10	129.00	144.55	161.50	318.00	179.85	195.30	166.75	269.95
11	134.00	148.55	166.85	334.85	184.95	202.65	172.20	281.15
12	139.05	152.70	172.35	351.95	190.25	210.20	177.80	292.65
13	144.15	156.85	177.85	369.10	195.55	217.80	183.40	304.15
14	149.25	161.00	183.35	386.25	200.85	225.35	189.00	315.65
15	154.35	165.10	188.85	403.40	206.15	232.90	194.60	327.15
16	159.45	169.25	194.30	420.50	211.45	240.45	200.20	338.60
17	164.55	173.40	199.80	437.65	216.75	248.05	205.85	350.10
18	169.65	177.50	205.30	454.80	222.00	255.60	211.45	361.60
19	174.70	181.65	210.80	471.90	227.30	263.15	217.05	373.10
20	179.80	185.80	216.30	489.05	232.60	270.70	222.65	384.60
21	184.75	188.65	221.80	502.75	237.90	278.00	228.05	396.05
22	189.80	191.55	227.30	516.40	243.20	285.55	233.65	407.55
23	194.90	194.45	232.80	530.10	248.50	293.10	239.25	419.05
24	200.00	197.30	238.30	543.75	253.75	300.65	244.85	430.55
25	205.10	200.20	243.80	557.45	259.05	308.20	250.45	442.05
26	210.15	203.05	249.30	571.10	264.35	315.80	256.05	453.50
27	215.25	205.95	254.80	584.80	269.65	323.35	261.65	465.00
28	220.35	208.80	260.30	598.45	274.95	330.90	267.25	476.50

GLOBAL EXPRESS GUARANTEED RETAIL PRICES—Continued

Maximum weight (pounds)	Country price group							
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)
29	225.45	211.70	265.80	612.15	280.25	338.45	272.85	488.00
30	230.50	214.60	271.30	625.80	285.55	346.00	278.45	499.50
31	234.85	217.45	276.75	639.50	290.55	353.20	284.05	510.95
32	239.20	220.35	282.25	653.15	295.85	360.75	289.65	522.45
33	243.60	223.20	287.75	666.85	301.10	368.30	295.25	533.95
34	247.95	226.10	293.25	680.50	306.40	375.85	300.85	545.45
35	252.30	229.00	298.75	694.20	311.70	383.40	306.45	556.95
36	256.65	231.85	304.25	707.85	317.00	390.95	312.05	568.40
37	261.00	234.75	309.75	721.55	322.25	398.50	317.65	579.90
38	265.35	237.60	315.25	735.20	327.55	406.05	323.25	591.40
39	269.70	240.50	320.75	748.90	332.85	413.60	328.85	602.90
40	274.05	243.40	326.25	762.60	338.15	421.15	334.45	614.40
41	277.80	246.00	331.10	774.05	343.10	428.25	339.75	625.30
42	281.50	248.90	336.60	787.65	348.35	435.80	345.35	636.75
43	285.20	251.75	342.10	801.30	353.65	443.35	350.95	648.25
44	288.95	254.65	347.55	814.95	358.95	450.90	356.55	659.70
45	292.65	257.55	353.05	828.60	364.20	458.45	362.15	671.20
46	296.40	260.40	358.55	842.20	369.50	465.95	367.70	682.65
47	300.10	263.30	364.05	855.85	374.80	473.50	373.30	694.15
48	303.85	266.15	369.50	869.50	380.05	481.05	378.90	705.65
49	307.55	269.05	375.00	883.15	385.35	488.60	384.50	717.10
50	311.30	271.90	380.50	896.75	390.65	496.15	390.10	728.60
51	315.00	274.80	385.95	910.40	395.90	503.20	395.70	740.05
52	318.75	277.65	391.45	924.05	401.20	510.70	401.30	751.55
53	322.45	280.55	396.95	937.70	406.50	518.25	406.90	763.05
54	326.20	283.40	402.45	951.30	411.75	525.80	412.50	774.50
55	329.90	286.30	407.90	964.95	417.05	533.30	418.10	786.00
56	333.65	289.15	413.40	978.60	422.30	540.85	423.70	797.45
57	337.35	292.05	418.90	992.25	427.60	548.40	429.30	808.95
58	341.10	294.90	424.35	1,005.85	432.90	555.90	434.85	820.45
59	344.80	297.80	429.85	1,019.50	438.15	563.45	440.45	831.90
60	348.55	300.65	435.35	1,033.15	443.45	571.00	446.05	843.40
61	351.90	303.55	440.85	1,046.80	448.75	578.50	451.65	854.85
62	355.65	306.45	446.30	1,060.40	454.00	586.05	457.25	866.35
63	359.35	309.30	451.80	1,074.05	459.30	593.60	462.85	877.80
64	363.10	312.20	457.30	1,087.70	464.60	601.10	468.45	889.30
65	366.80	315.05	462.80	1,101.35	469.85	608.65	474.05	900.80
66	370.50	317.95	468.25	1,114.95	475.15	616.20	479.65	912.25
67	374.25	320.80	473.75	1,128.60	480.45	623.70	485.25	923.75
68	377.95	323.70	479.25	1,142.25	485.70	631.25	490.85	935.20
69	381.70	326.55	484.70	1,155.85	491.00	638.80	496.45	946.70
70	385.40	329.45	490.20	1,169.50	496.25	646.30	502.05	958.20

GLOBAL EXPRESS GUARANTEED COMMERCIAL BASE PRICES

Maximum weight (pounds)	Country price group							
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)
0.5	64.41	71.73	82.70	135.80	91.63	95.95	72.01	113.24
1	77.05	78.04	93.72	154.66	106.35	109.20	85.22	127.21
2	82.32	84.84	100.75	171.14	113.48	117.66	95.24	141.79
3	87.64	91.68	107.78	187.67	120.60	126.16	105.21	156.37
4	92.91	98.52	114.81	204.16	127.73	134.62	115.24	170.95
5	97.85	105.36	121.79	220.64	134.85	143.12	125.26	185.54
6	102.79	111.67	128.16	236.93	141.98	151.62	131.91	199.45
7	107.73	118.09	134.47	253.22	149.20	160.08	138.51	213.70
8	112.67	124.50	140.79	269.52	156.42	168.58	145.16	227.95
9	117.61	130.91	147.11	285.81	163.64	177.03	151.76	242.20
10	122.55	137.32	153.43	302.10	170.86	185.54	158.41	256.45
11	127.30	141.12	158.51	318.11	175.70	192.52	163.59	267.09
12	132.10	145.07	163.73	334.35	180.74	199.69	168.91	278.02
13	136.94	149.01	168.96	350.65	185.77	206.91	174.23	288.94
14	141.79	152.95	174.18	366.94	190.81	214.08	179.55	299.87
15	146.63	156.85	179.41	383.23	195.84	221.26	184.87	310.79
16	151.48	160.79	184.59	399.48	200.88	228.43	190.19	321.67
17	156.32	164.73	189.81	415.77	205.91	235.65	195.56	332.60
18	161.17	168.63	195.04	432.06	210.90	242.82	200.88	343.52

GLOBAL EXPRESS GUARANTEED COMMERCIAL BASE PRICES—Continued

Maximum weight (pounds)	Country price group							
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)
19	165.97	172.57	200.26	448.31	215.94	249.99	206.20	354.45
20	170.81	176.51	205.49	464.60	220.97	257.17	211.52	365.37
21	175.51	179.22	210.71	477.61	226.01	264.10	216.65	376.25
22	180.31	181.97	215.94	490.58	231.04	271.27	221.97	387.17
23	185.16	184.73	221.16	503.60	236.08	278.45	227.29	398.10
24	190.00	187.44	226.39	516.56	241.06	285.62	232.61	409.02
25	194.85	190.19	231.61	529.58	246.10	292.79	237.93	419.95
26	199.64	192.90	236.84	542.55	251.13	300.01	243.25	430.83
27	204.49	195.65	242.06	555.56	256.17	307.18	248.57	441.75
28	209.33	198.36	247.29	568.53	261.20	314.36	253.89	452.68
29	214.18	201.12	252.51	581.54	266.24	321.53	259.21	463.60
30	218.98	203.87	257.74	594.51	271.27	328.70	264.53	474.53
31	223.11	206.58	262.91	607.53	276.02	335.54	269.85	485.40
32	227.24	209.33	268.14	620.49	281.06	342.71	275.17	496.33
33	231.42	212.04	273.36	633.51	286.05	349.89	280.49	507.25
34	235.55	214.80	278.59	646.48	291.08	357.06	285.81	518.18
35	239.69	217.55	283.81	659.49	296.12	364.23	291.13	529.10
36	243.82	220.26	289.04	672.46	301.15	371.40	296.45	539.98
37	247.95	223.01	294.26	685.47	306.14	378.58	301.77	550.91
38	252.08	225.72	299.49	698.44	311.17	385.75	307.09	561.83
39	256.22	228.48	304.71	711.46	316.21	392.92	312.41	572.76
40	260.35	231.23	309.94	724.47	321.24	400.09	317.73	583.68
41	263.91	233.70	314.55	735.35	325.95	406.84	322.76	594.04
42	267.43	236.46	319.77	748.27	330.93	414.01	328.08	604.91
43	270.94	239.16	325.00	761.24	335.97	421.18	333.40	615.84
44	274.50	241.92	330.17	774.20	341.00	428.36	338.72	626.72
45	278.02	244.67	335.40	787.17	345.99	435.53	344.04	637.64
46	281.58	247.38	340.62	800.09	351.03	442.65	349.32	648.52
47	285.10	250.14	345.85	813.06	356.06	449.83	354.64	659.44
48	288.66	252.84	351.03	826.03	361.05	457.00	359.96	670.37
49	292.17	255.60	356.25	838.99	366.08	464.17	365.28	681.25
50	295.74	258.31	361.48	851.91	371.12	471.34	370.60	692.17
51	299.25	261.06	366.65	864.88	376.11	478.04	375.92	703.05
52	302.81	263.77	371.88	877.85	381.14	485.17	381.24	713.97
53	306.33	266.52	377.10	890.82	386.18	492.34	386.56	724.90
54	309.89	269.23	382.33	903.74	391.16	499.51	391.88	735.78
55	313.41	271.99	387.51	916.70	396.20	506.64	397.20	746.70
56	316.97	274.69	392.73	929.67	401.19	513.81	402.52	757.58
57	320.48	277.45	397.96	942.64	406.22	520.98	407.84	768.50
58	324.05	280.16	403.13	955.56	411.26	528.11	413.11	779.43
59	327.56	282.91	408.36	968.53	416.24	535.28	418.43	790.31
60	331.12	285.62	413.58	981.49	421.28	542.45	423.75	801.23
61	334.31	288.37	418.81	994.46	426.31	549.58	429.07	812.11
62	337.87	291.13	423.99	1,007.38	431.30	556.75	434.39	823.03
63	341.38	293.84	429.21	1,020.35	436.34	563.92	439.71	833.91
64	344.95	296.59	434.44	1,033.32	441.37	571.05	445.03	844.84
65	348.46	299.30	439.66	1,046.28	446.36	578.22	450.35	855.76
66	351.98	302.05	444.84	1,059.20	451.39	585.39	455.67	866.64
67	355.54	304.76	450.06	1,072.17	456.43	592.52	460.99	877.56
68	359.05	307.52	455.29	1,085.14	461.42	599.69	466.31	888.44
69	362.62	310.22	460.47	1,098.06	466.45	606.86	471.63	899.37
70	366.13	312.98	465.69	1,111.03	471.44	613.99	476.95	910.29

GLOBAL EXPRESS GUARANTEED COMMERCIAL PLUS PRICES

Maximum weight (pounds)	Country price group							
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)
0.5	64.41	71.73	82.70	135.80	91.63	95.95	72.01	113.24
1	77.05	78.04	93.72	154.66	106.35	109.20	85.22	127.21
2	82.32	84.84	100.75	171.14	113.48	117.66	95.24	141.79
3	87.64	91.68	107.78	187.67	120.60	126.16	105.21	156.37
4	92.91	98.52	114.81	204.16	127.73	134.62	115.24	170.95
5	97.85	105.36	121.79	220.64	134.85	143.12	125.26	185.54
6	102.79	111.67	128.16	236.93	141.98	151.62	131.91	199.45
7	107.73	118.09	134.47	253.22	149.20	160.08	138.51	213.70
8	112.67	124.50	140.79	269.52	156.42	168.58	145.16	227.95

GLOBAL EXPRESS GUARANTEED COMMERCIAL PLUS PRICES—Continued

Maximum weight (pounds)	Country price group							
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)
9	117.61	130.91	147.11	285.81	163.64	177.03	151.76	242.20
10	122.55	137.32	153.43	302.10	170.86	185.54	158.41	256.45
11	127.30	141.12	158.51	318.11	175.70	192.52	163.59	267.09
12	132.10	145.07	163.73	334.35	180.74	199.69	168.91	278.02
13	136.94	149.01	168.96	350.65	185.77	206.91	174.23	288.94
14	141.79	152.95	174.18	366.94	190.81	214.08	179.55	299.87
15	146.63	156.85	179.41	383.23	195.84	221.26	184.87	310.79
16	151.48	160.79	184.59	399.48	200.88	228.43	190.19	321.67
17	156.32	164.73	189.81	415.77	205.91	235.65	195.56	332.60
18	161.17	168.63	195.04	432.06	210.90	242.82	200.88	343.52
19	165.97	172.57	200.26	448.31	215.94	249.99	206.20	354.45
20	170.81	176.51	205.49	464.60	220.97	257.17	211.52	365.37
21	175.51	179.22	210.71	477.61	226.01	264.10	216.65	376.25
22	180.31	181.97	215.94	490.58	231.04	271.27	221.97	387.17
23	185.16	184.73	221.16	503.60	236.08	278.45	227.29	398.10
24	190.00	187.44	226.39	516.56	241.06	285.62	232.61	409.02
25	194.85	190.19	231.61	529.58	246.10	292.79	237.93	419.95
26	199.64	192.90	236.84	542.55	251.13	300.01	243.25	430.83
27	204.49	195.65	242.06	555.56	256.17	307.18	248.57	441.75
28	209.33	198.36	247.29	568.53	261.20	314.36	253.89	452.68
29	214.18	201.12	252.51	581.54	266.24	321.53	259.21	463.60
30	218.98	203.87	257.74	594.51	271.27	328.70	264.53	474.53
31	223.11	206.58	262.91	607.53	276.02	335.54	269.85	485.40
32	227.24	209.33	268.14	620.49	281.06	342.71	275.17	496.33
33	231.42	212.04	273.36	633.51	286.05	349.89	280.49	507.25
34	235.55	214.80	278.59	646.48	291.08	357.06	285.81	518.18
35	239.69	217.55	283.81	659.49	296.12	364.23	291.13	529.10
36	243.82	220.26	289.04	672.46	301.15	371.40	296.45	539.98
37	247.95	223.01	294.26	685.47	306.14	378.58	301.77	550.91
38	252.08	225.72	299.49	698.44	311.17	385.75	307.09	561.83
39	256.22	228.48	304.71	711.46	316.21	392.92	312.41	572.76
40	260.35	231.23	309.94	724.47	321.24	400.09	317.73	583.68
41	263.91	233.70	314.55	735.35	325.95	406.84	322.76	594.04
42	267.43	236.46	319.77	748.27	330.93	414.01	328.08	604.91
43	270.94	239.16	325.00	761.24	335.97	421.18	333.40	615.84
44	274.50	241.92	330.17	774.20	341.00	428.36	338.72	626.72
45	278.02	244.67	335.40	787.17	345.99	435.53	344.04	637.64
46	281.58	247.38	340.62	800.09	351.03	442.65	349.32	648.52
47	285.10	250.14	345.85	813.06	356.06	449.83	354.64	659.44
48	288.66	252.84	351.03	826.03	361.05	457.00	359.96	670.37
49	292.17	255.60	356.25	838.99	366.08	464.17	365.28	681.25
50	295.74	258.31	361.48	851.91	371.12	471.34	370.60	692.17
51	299.25	261.06	366.65	864.88	376.11	478.04	375.92	703.05
52	302.81	263.77	371.88	877.85	381.14	485.17	381.24	713.97
53	306.33	266.52	377.10	890.82	386.18	492.34	386.56	724.90
54	309.89	269.23	382.33	903.74	391.16	499.51	391.88	735.78
55	313.41	271.99	387.51	916.70	396.20	506.64	397.20	746.70
56	316.97	274.69	392.73	929.67	401.19	513.81	402.52	757.58
57	320.48	277.45	397.96	942.64	406.22	520.98	407.84	768.50
58	324.05	280.16	403.13	955.56	411.26	528.11	413.11	779.43
59	327.56	282.91	408.36	968.53	416.24	535.28	418.43	790.31
60	331.12	285.62	413.58	981.49	421.28	542.45	423.75	801.23
61	334.31	288.37	418.81	994.46	426.31	549.58	429.07	812.11
62	337.87	291.13	423.99	1,007.38	431.30	556.75	434.39	823.03
63	341.38	293.84	429.21	1,020.35	436.34	563.92	439.71	833.91
64	344.95	296.59	434.44	1,033.32	441.37	571.05	445.03	844.84
65	348.46	299.30	439.66	1,046.28	446.36	578.22	450.35	855.76
66	351.98	302.05	444.84	1,059.20	451.39	585.39	455.67	866.64
67	355.54	304.76	450.06	1,072.17	456.43	592.52	460.99	877.56
68	359.05	307.52	455.29	1,085.14	461.42	599.69	466.31	888.44
69	362.62	310.22	460.47	1,098.06	466.45	606.86	471.63	899.37
70	366.13	312.98	465.69	1,111.03	471.44	613.99	476.95	910.29

Priority Mail Express International Flat Rate Retail Prices

	Country price group							
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)
Flat Rate Envelope	44.50	61.85	65.85	64.25	66.50	67.00	64.95	67.90

Priority Mail Express International Flat Rate Commercial Base Prices

	Country price group							
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)
Flat Rate Envelope	42.30	56.75	61.95	59.45	62.55	64.60	61.90	63.00

Priority Mail Express International Flat Rate Commercial Plus Prices

	Country price group							
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)
Flat Rate Envelope	42.30	56.75	61.95	59.45	62.55	64.60	61.90	63.00

Priority Mail Express International Retail Prices

Maximum weight (pounds)	Country price group								
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
0.5	44.00	54.00	58.95	68.40	62.90	63.00	62.95	60.90	58.50
1	48.10	58.20	63.35	69.80	64.85	66.80	68.95	65.95	63.20
2	53.20	62.40	69.10	75.35	69.05	71.75	75.70	71.35	68.10
3	58.30	66.60	74.85	80.90	73.25	76.65	82.40	76.75	73.05
4	63.45	70.80	80.55	86.45	77.50	81.60	89.15	82.15	78.00
5	68.55	75.00	86.30	92.00	81.70	86.50	95.90	87.55	82.95
6	73.70	78.10	90.50	98.00	85.90	91.65	102.75	92.85	87.55
7	78.80	81.05	94.70	103.55	90.10	96.70	109.50	98.20	92.20
8	83.95	84.00	98.90	109.15	94.35	101.70	116.25	103.50	96.80
9	89.05	86.95	103.10	114.70	98.55	106.75	123.00	108.80	101.45
10	94.20	89.90	107.30	120.30	102.75	111.80	129.75	114.10	106.10
11	99.20	92.95	111.00	125.80	106.85	117.05	136.60	119.40	110.80
12	104.10	95.90	114.75	131.35	111.05	122.10	143.35	124.70	115.55
13	109.05	98.85	118.45	136.85	115.30	127.15	150.10	130.00	120.30
14	113.95	101.85	122.20	142.40	119.50	132.20	156.85	135.30	125.00
15	118.90	104.80	125.90	147.90	123.70	137.25	163.60	140.60	129.75
16	123.80	107.65	129.65	153.45	127.90	142.30	170.35	145.90	134.45
17	128.70	110.50	133.35	158.95	132.10	147.35	177.15	151.20	139.20
18	133.65	113.35	137.10	164.50	136.30	152.40	183.90	156.50	143.95
19	138.55	116.20	140.80	170.00	140.50	157.45	190.65	161.80	148.65
20	143.50	119.05	144.55	175.50	144.75	162.50	197.40	167.15	153.40
21	148.10	121.90	148.40	181.05	148.95	167.55	204.35	171.60	158.30
22	153.05	124.75	152.15	186.55	153.15	172.60	211.10	176.90	163.00
23	157.95	127.60	155.85	192.10	157.35	177.65	217.85	182.15	167.75
24	162.85	130.50	159.60	197.60	161.55	182.70	224.60	187.45	172.50
25	167.75	133.35	163.35	203.15	165.75	187.75	231.35	192.70	177.25

Maximum weight (pounds)	Country price group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
0.5	68.05	64.90	62.55	64.90	64.70	66.65	64.90	64.90
1	71.00	67.50	71.75	67.55	66.65	70.40	67.45	67.55
2	77.50	72.05	77.30	70.95	73.10	74.95	70.65	70.55
3	84.00	76.55	82.90	74.30	79.50	79.55	73.85	73.50
4	90.50	81.10	88.45	77.70	85.95	84.10	77.00	76.50
5	97.00	85.60	94.00	81.05	92.40	88.65	80.20	79.45
6	103.80	89.20	99.25	84.55	98.90	93.35	83.30	82.40
7	110.50	92.70	104.50	88.05	105.45	98.00	86.35	85.40
8	117.20	96.20	109.75	91.50	111.95	102.70	89.45	88.35

Maximum weight (pounds)	Country price group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
9	123.90	99.65	115.00	95.00	118.50	107.35	92.55	91.35
10	130.60	103.15	120.30	98.50	125.05	112.05	95.60	94.30
11	137.45	106.75	124.45	101.95	130.10	116.70	99.35	97.90
12	144.25	110.25	128.85	105.45	136.95	121.40	103.05	101.50
13	151.05	113.75	133.30	108.95	143.80	126.05	106.75	105.10
14	157.85	117.25	137.70	112.40	150.65	130.70	110.45	108.70
15	164.70	120.75	142.10	115.90	157.50	135.40	114.15	112.30
16	171.50	124.20	146.50	119.40	164.35	140.05	117.90	115.85
17	178.30	127.70	150.95	122.90	171.20	144.75	121.60	119.45
18	185.10	131.20	155.35	126.35	178.05	149.40	125.30	123.05
19	191.95	134.70	159.75	129.85	184.90	154.10	129.00	126.65
20	198.75	138.20	164.15	133.35	191.75	158.75	132.70	130.25
21	205.75	141.85	168.25	136.80	197.85	163.45	135.25	133.20
22	212.55	145.30	172.65	140.30	204.00	168.10	138.95	136.80
23	219.40	148.80	177.05	143.80	210.10	172.80	142.60	140.35
24	226.20	152.30	181.45	147.25	216.25	177.45	146.30	143.95
25	233.05	155.80	185.85	150.75	222.40	182.10	149.95	147.50

Maximum weight (pounds)	Country price group								
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
26	172.70	136.20	167.05	208.65	170.00	192.80	238.15	198.00	181.95
27	177.60	139.05	170.80	214.20	174.20	197.85	244.90	203.25	186.70
28	182.50	141.90	174.50	219.70	178.40	202.90	251.65	208.55	191.45
29	187.40	144.75	178.25	225.25	182.60	207.95	258.40	213.85	196.20
30	192.30	147.60	181.95	230.75	186.80	213.00	265.15	219.10	200.90
31	196.05	150.60	185.70	235.60	191.00	218.05	272.20	224.40	205.85
32	200.10	153.45	189.45	241.10	195.25	223.10	278.95	229.65	210.60
33	204.20	156.30	193.15	246.60	199.45	228.15	285.75	234.95	215.35
34	208.25	159.15	196.90	252.10	203.65	233.20	292.50	240.20	220.05
35	212.35	162.05	200.60	257.60	207.85	238.25	299.25	245.50	224.80
36	216.40	164.90	204.35	263.15	212.05	243.30	306.05	250.80	229.55
37	220.50	167.75	208.10	268.65	216.25	248.35	312.80	256.05	234.30
38	224.55	170.60	211.80	274.15	220.50	253.40	319.55	261.35	239.05
39	228.65	173.45	215.55	279.65	224.70	258.45	326.30	266.60	243.80
40	232.70	176.30	219.25	285.15	228.90	263.50	333.10	271.90	248.50
41	236.35	179.35	223.20	290.65	233.10	268.80	339.85	277.15	253.25
42	240.40	182.20	226.95	296.15	237.30	273.85	346.60	282.45	258.00
43	244.45	185.05	230.70	301.65	241.50	278.90	353.40	287.75	262.75
44	248.55	187.95	234.40	307.20	245.70	283.95	360.15	293.00	267.50
45	252.60	190.80	238.15	312.70	249.95	289.00	366.90	298.30	272.20
46	256.70	193.65	241.90	318.20	254.15	294.05	373.70	303.55	276.95
47	260.75	196.50	245.60	323.70	258.35	299.10	380.45	308.85	281.70
48	264.80	199.35	249.35	329.20	262.55	304.15	387.20	314.10	286.45
49	268.90	202.25	253.10	334.70	266.75	309.20	394.00	319.40	291.20
50	272.95	205.10	256.80	340.20	270.95	314.25	400.75	324.70	295.95

Maximum weight (pounds)	Country price group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
26	239.85	159.30	190.25	154.25	228.50	186.80	153.65	151.10
27	246.65	162.80	194.65	157.70	234.65	191.45	157.30	154.65
28	253.50	166.30	199.05	161.20	240.75	196.15	161.00	158.25
29	260.30	169.80	203.45	164.70	246.90	200.80	164.65	161.80
30	267.10	173.30	207.85	168.15	253.00	205.50	168.35	165.40
31	274.20	176.95	211.85	171.65	259.15	210.15	171.85	168.80
32	281.05	180.45	216.25	175.15	265.30	214.85	175.55	172.40
33	287.85	183.95	220.65	178.60	271.40	219.50	179.20	175.95
34	294.70	187.45	225.05	182.10	277.55	224.20	182.90	179.55
35	301.50	190.95	229.45	185.60	283.65	228.85	186.55	183.10
36	308.35	194.45	233.85	189.05	289.80	233.50	190.25	186.70
37	315.15	198.00	238.25	192.55	295.90	238.20	193.90	190.25
38	322.00	201.50	242.65	196.05	302.05	242.85	197.60	193.85
39	328.80	205.00	247.00	199.50	308.20	247.55	201.25	197.40
40	335.65	208.50	251.40	203.00	314.30	252.20	204.95	201.00
41	342.80	212.20	255.55	206.50	320.45	256.90	208.40	204.35
42	349.60	215.70	259.95	210.00	326.55	261.55	212.05	207.95
43	356.45	219.20	264.35	213.45	332.70	266.25	215.75	211.50
44	363.30	222.70	268.75	216.95	338.80	270.90	219.40	215.05

Maximum weight (pounds)	Country price group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
45	370.10	226.20	273.15	220.45	344.95	275.55	223.10	218.65
46	376.95	229.70	277.50	223.90	351.10	280.25	226.75	222.20
47	383.75	233.20	281.90	227.40	357.20	284.90	230.45	225.80
48	390.60	236.70	286.30	230.90	363.35	289.60	234.10	229.35
49	397.45	240.20	290.70	234.35	369.45	294.25	237.75	232.95
50	404.25	243.70	295.10	237.85	375.60	298.95	241.45	236.50

Maximum weight (pounds)	Country price group								
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
51	277.00	209.95	260.55	345.75	275.20	319.30	407.50	329.95	300.95
52	281.10	212.85	264.30	351.25	279.40	324.35	414.30	335.25	305.70
53	285.15	215.70	268.00	356.75	283.60	329.45	421.05	340.50	310.45
54	289.20	218.60	271.75	362.25	287.80	334.50	427.80	345.80	315.20
55	293.30	221.50	275.50	367.75	292.00	339.55	434.60	351.05	319.95
56	297.35	224.40	279.20	373.25	296.20	344.60	441.35	356.35	324.70
57	301.45	227.25	282.95	378.75	300.45	349.65	448.10	361.65	329.45
58	305.50	230.15	286.70	384.25	304.65	354.70	454.90	366.90	334.20
59	309.55	233.05	290.40	389.80	308.85	359.75	461.65	372.20	338.90
60	313.65	235.95	294.15	395.30	313.05	364.80	468.40	377.45	343.65
61	317.70	238.80	297.90	400.80	317.25	369.85	475.20	382.75	348.40
62	321.75	241.70	301.60	406.30	321.45	374.90	481.95	388.00	353.15
63	325.85	244.60	305.35	411.80	325.65	379.95	488.70	393.30	357.90
64	329.90	247.50	309.10	417.30	329.90	385.00	495.50	398.60	362.65
65	334.00	250.35	312.80	422.80	334.10	390.05	502.25	403.85	367.40
66	338.05	253.25	316.55	428.35	338.30	395.15	509.00	409.15	372.15
67	.....	256.15	320.30	433.85	342.50	400.20	515.80	414.40	376.90
68	.....	259.05	324.00	439.35	346.70	405.25	522.55	419.70	381.65
69	.....	261.90	327.75	444.85	350.90	410.30	529.30	424.95	386.40
70	.....	264.80	331.50	450.35	355.15	415.35	536.10	430.25	391.15

Maximum weight (pounds)	Country price group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
51	411.50	247.20	299.20	241.35	381.70	303.60	245.10	240.05
52	418.35	250.75	303.55	244.80	387.85	308.30	248.80	243.65
53	425.15	254.25	307.95	248.30	394.00	312.95	252.45	247.20
54	432.00	257.75	312.35	251.80	400.10	317.65	256.10	250.80
55	438.85	261.25	316.70	255.25	406.25	322.30	259.80	254.35
56	445.70	264.75	321.10	258.75	412.35	326.95	263.45	257.90
57	452.50	268.25	325.50	262.25	418.50	331.65	267.15	261.50
58	459.35	271.75	329.90	265.70	424.60	336.30	270.80	265.05
59	466.20	275.25	334.25	269.20	430.75	341.00	274.50	268.65
60	473.05	278.75	338.65	272.70	436.85	345.65	278.15	272.20
61	480.35	282.25	342.70	276.15	443.00	350.35	281.55	275.50
62	487.20	285.75	347.10	279.65	449.15	355.00	285.20	279.10
63	494.00	289.25	351.45	283.15	455.25	359.70	288.90	282.65
64	500.85	292.80	355.85	286.60	461.40	364.35	292.55	286.20
65	507.70	296.30	360.25	290.10	467.50	369.00	296.20	289.80
66	514.55	299.80	364.60	293.60	473.65	373.70	299.90	293.35
67	.....	.....	.....	.....	.....	.....	.....	.....
68	.....	.....	.....	.....	.....	.....	.....	.....
69	.....	.....	.....	.....	.....	.....	.....	.....
70	.....	.....	.....	.....	.....	.....	.....	.....

Priority Mail Express International Offered at a Discount at Retail

If a customer requests PMI at a Postal Service retail counter for an item for which postage has not been previously paid, weight-rated PMEI may be offered to certain destinations, for certain weight steps, at a discounted price equivalent to the corresponding weight-based rate in the PMI Parcels Retail price table (2315.6), if all PMEI eligibility requirements are met and the Postal Service determines that service can be improved and/or the PMEI destination country delivery costs are lower than PMI destination country delivery costs.

Countries and Weight Steps for Which Priority Mail Express International Offered at a Discount at Retail Is Available

Country	Weight steps (lbs.)
Australia	8–66
Brazil	5–66
Chile	8–44
China	1–10
France	2–66
Germany	1–4
Great Britain	2–66
India	19–44
Israel	1–5
Mexico	50–70
New Zealand	8–66
Philippines	19–44
Russia	4–44
Spain	1–10

Priority Mail Express International Commercial Base Prices

Maximum weight (pounds)	Country price group								
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
0.5	42.00	51.30	56.26	65.16	59.78	59.84	60.69	57.58	55.49
1	45.90	55.52	60.47	66.50	61.60	63.64	66.39	62.94	60.19
2	50.78	59.52	65.95	71.78	65.60	68.34	72.87	68.10	64.91
3	55.67	63.51	71.44	77.06	69.61	73.04	79.37	73.26	69.61
4	60.57	67.51	76.92	82.35	73.61	77.73	85.86	78.43	74.31
5	65.46	71.51	82.40	87.64	77.60	82.43	92.35	83.59	79.02
6	70.35	74.40	86.40	92.92	81.61	87.23	98.83	88.66	83.43
7	75.23	77.21	90.41	98.21	85.61	92.02	105.33	93.72	87.84
8	80.13	80.03	94.40	103.49	89.62	96.82	111.82	98.78	92.25
9	85.02	82.85	98.40	108.78	93.61	101.61	118.31	103.84	96.65
10	89.91	85.66	102.41	114.07	97.61	106.41	124.79	108.91	101.07
11	94.14	88.47	105.97	119.30	101.62	111.21	131.42	113.42	105.47
12	98.82	91.29	109.52	124.54	105.62	116.01	137.91	118.47	109.98
13	103.49	94.11	113.08	129.77	109.62	120.80	144.41	123.50	114.48
14	108.16	96.93	116.64	135.01	113.62	125.60	150.90	128.54	118.99
15	112.83	99.74	120.19	140.24	117.62	130.40	157.40	133.58	123.49
16	117.50	102.46	123.75	145.49	121.63	135.19	163.90	138.62	128.00
17	122.17	105.18	127.31	150.72	125.62	139.98	170.39	143.66	132.50
18	126.84	107.89	130.86	155.96	129.63	144.78	176.88	148.70	137.00
19	131.51	110.60	134.42	161.19	133.63	149.58	183.39	153.73	141.50
20	136.19	113.33	137.98	166.43	137.63	154.38	189.88	158.78	146.02
21	140.85	116.04	141.81	171.66	141.63	159.17	196.38	163.81	150.52
22	145.52	118.76	145.37	176.90	145.63	163.97	202.87	168.85	155.02
23	150.19	121.47	148.93	182.14	149.64	168.77	209.37	173.89	159.52
24	154.87	124.20	152.50	187.38	153.64	173.57	215.87	178.93	164.03
25	159.53	126.91	156.06	192.61	157.63	178.35	222.36	183.97	168.53

Maximum weight (pounds)	Country price group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
0.5	64.72	62.24	61.20	62.24	61.21	62.98	60.75	62.30
1	67.53	64.07	68.17	64.17	63.03	66.57	63.90	64.14
2	73.70	68.37	73.46	67.38	69.11	70.88	66.92	66.96
3	79.88	72.66	78.75	70.60	75.19	75.20	69.94	69.77
4	86.06	76.97	84.03	73.81	81.27	79.52	72.96	72.59
5	92.23	81.27	89.32	77.01	87.34	83.84	75.97	75.41
6	98.60	84.57	94.31	80.33	93.07	88.26	78.90	78.16
7	104.98	87.88	99.30	83.64	99.22	92.67	81.82	80.96
8	111.35	91.20	104.28	86.94	105.35	97.09	84.74	83.78
9	117.72	94.50	109.27	90.25	111.50	101.51	87.65	86.60
10	124.09	97.81	114.26	93.57	117.65	105.93	90.58	89.42
11	130.56	101.12	118.47	96.88	124.19	110.34	94.09	92.82
12	137.04	104.44	122.66	100.18	130.72	114.76	97.60	96.23
13	143.51	107.74	126.86	103.49	137.26	119.18	101.12	99.64
14	149.98	111.05	131.06	106.81	143.80	123.60	104.64	103.05
15	156.45	114.36	135.26	110.12	150.34	128.01	108.15	106.45

Maximum weight (pounds)	Country price group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
16	162.93	117.68	139.45	113.42	156.87	132.43	111.66	109.87
17	169.40	120.98	143.66	116.73	163.42	136.85	115.17	113.28
18	175.86	124.29	147.86	120.05	169.96	141.27	118.69	116.69
19	182.33	127.60	152.06	123.35	176.50	145.68	122.21	120.09
20	188.81	130.92	156.25	126.66	183.03	150.10	125.72	123.50
21	195.47	134.09	160.45	129.97	188.89	154.52	129.23	126.91
22	201.94	137.40	164.65	133.29	194.74	158.94	132.75	130.32
23	208.42	140.70	168.85	136.59	200.58	163.35	136.26	133.72
24	214.90	144.02	173.05	139.90	206.43	167.77	139.77	137.13
25	221.38	147.32	177.25	143.21	212.29	172.20	143.29	140.55

Maximum weight (pounds)	Country price group								
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
26	164.20	129.63	159.62	197.85	161.64	183.15	228.86	189.01	173.03
27	168.87	132.34	163.19	203.08	165.64	187.95	235.36	194.04	177.54
28	173.55	135.06	166.75	208.32	169.64	192.75	241.85	199.09	182.05
29	178.22	137.78	170.31	213.55	173.64	197.54	248.35	204.12	186.55
30	182.88	140.49	173.88	218.80	177.64	202.34	254.84	209.16	191.05
31	186.77	142.79	177.95	224.03	181.65	207.14	261.34	214.20	195.55
32	190.66	145.51	181.53	229.27	185.65	211.94	267.84	219.24	200.06
33	194.54	148.22	185.10	234.50	189.64	216.73	274.33	224.28	204.57
34	198.42	150.92	188.67	239.74	193.65	221.52	280.83	229.32	209.07
35	202.30	153.63	192.25	244.97	197.65	226.32	287.33	234.35	213.57
36	206.19	156.35	195.82	250.21	201.66	231.12	293.82	239.40	218.08
37	210.07	159.06	199.40	255.44	205.65	235.91	300.32	244.43	222.58
38	213.96	161.76	202.97	260.69	209.65	240.71	306.81	249.48	227.08
39	217.84	164.47	206.54	265.92	213.66	245.51	313.31	254.51	231.58
40	221.73	167.19	210.12	271.16	217.66	250.31	319.81	259.55	236.10
41	225.61	170.06	213.69	276.39	221.66	253.63	326.30	262.04	239.44
42	229.49	172.76	217.27	281.63	225.66	258.40	332.80	267.04	243.92
43	233.37	175.47	220.84	286.86	229.66	263.17	339.30	272.02	248.40
44	237.26	178.19	224.41	292.10	233.67	267.94	345.79	277.02	252.89
45	241.14	180.90	227.99	297.34	237.66	272.70	352.29	282.00	257.37
46	245.03	183.61	231.56	302.58	241.66	277.47	358.78	287.00	261.85
47	248.91	186.32	235.14	307.81	245.67	282.24	365.29	291.98	266.33
48	252.80	189.04	238.71	313.05	249.67	287.02	371.78	296.98	270.82
49	256.68	191.75	242.28	318.28	253.67	291.78	378.27	301.97	275.30
50	260.56	194.46	245.86	323.52	257.67	296.55	384.77	306.96	279.78

Maximum weight (pounds)	Country price group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
26	227.85	150.62	181.45	146.53	218.14	176.62	146.81	143.96
27	234.33	153.93	185.65	149.83	223.98	181.03	150.32	147.36
28	240.81	157.24	189.84	153.14	229.83	185.45	153.83	150.77
29	247.29	160.55	194.04	156.45	235.69	189.87	157.34	154.18
30	253.76	163.85	198.24	159.76	241.54	194.29	160.86	157.59
31	260.24	167.15	202.45	163.07	247.39	198.70	164.38	160.84
32	266.73	170.47	206.64	166.38	253.23	203.12	167.89	164.25
33	273.20	173.77	210.84	169.69	259.09	207.54	171.40	167.65
34	279.68	177.08	215.04	173.00	264.94	211.96	174.92	171.06
35	286.15	180.38	219.24	176.31	270.79	216.37	178.43	174.46
36	292.64	183.70	223.43	179.62	276.63	220.79	181.94	177.87
37	299.11	187.00	227.64	182.93	282.49	225.21	185.46	181.27
38	305.59	190.30	231.84	186.24	288.34	229.63	188.98	184.68
39	312.06	193.61	236.04	189.55	294.19	234.04	192.49	188.08
40	318.55	196.92	240.23	192.86	300.04	238.46	196.00	191.49
41	325.02	200.23	244.43	196.16	305.89	241.72	199.13	194.52
42	331.50	203.53	248.63	199.48	311.74	246.12	202.64	197.92
43	337.97	206.83	252.83	202.79	317.59	250.50	206.15	201.31
44	344.46	210.15	257.03	206.10	323.44	254.90	209.65	204.71
45	350.93	213.45	261.23	209.40	329.30	259.30	213.16	208.12
46	357.41	216.76	265.43	212.72	335.14	263.70	216.67	211.52
47	363.88	220.06	269.63	216.03	340.99	268.09	220.18	214.91
48	370.37	223.37	273.82	219.34	346.84	272.49	223.68	218.31
49	376.84	226.68	278.02	222.64	352.70	276.89	227.19	221.71
50	383.32	229.98	282.22	225.96	358.54	281.29	230.70	225.11

Maximum weight (pounds)	Country price group								
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
51	264.44	196.79	249.43	325.59	261.67	302.78	391.27	311.95	284.26
52	268.33	199.50	253.00	330.78	265.68	307.57	397.76	316.94	288.75
53	272.22	202.21	256.58	335.97	269.67	312.35	404.26	321.93	293.23
54	276.10	204.91	260.15	341.16	273.68	317.15	410.75	326.92	297.71
55	279.98	207.61	263.73	346.34	277.68	321.94	417.26	331.91	302.19
56	283.87	210.33	267.30	351.53	281.68	326.74	423.75	336.90	306.68
57	287.75	213.03	270.87	356.71	285.68	331.52	430.24	341.89	311.16
58	291.63	215.74	274.45	361.90	289.68	336.32	436.74	346.88	315.64
59	295.51	218.44	278.02	367.08	293.69	341.11	443.24	351.87	320.12
60	299.40	221.15	281.60	372.27	297.69	345.90	449.73	356.86	324.61
61	303.29	223.43	285.17	377.45	301.68	350.69	456.23	361.85	329.09
62	307.17	226.13	288.74	382.65	305.69	355.48	462.72	366.84	333.57
63	311.05	228.82	292.32	387.83	309.69	360.28	469.23	371.83	338.05
64	314.94	231.53	295.89	393.02	313.70	365.07	475.72	376.83	342.54
65	318.82	234.23	299.47	398.20	317.69	369.86	482.21	381.81	347.02
66	322.70	236.93	303.04	403.39	321.69	374.65	488.71	386.81	351.50
67	.....	239.63	306.61	408.57	325.70	379.44	495.21	391.79	355.98
68	.....	242.34	310.19	413.76	329.70	384.24	501.70	396.79	360.47
69	.....	245.04	313.76	418.94	333.69	389.02	508.20	401.77	364.95
70	.....	247.74	317.34	424.13	337.70	393.82	514.69	406.77	369.43

Maximum weight (pounds)	Country price group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
51	389.04	232.39	285.05	228.17	364.39	284.30	233.53	228.06
52	395.52	235.69	289.22	231.46	370.24	288.68	237.03	231.46
53	401.98	238.98	293.40	234.75	376.10	293.06	240.52	234.85
54	408.44	242.27	297.58	238.05	381.95	297.44	244.03	238.25
55	414.90	245.56	301.76	241.34	387.79	301.81	247.52	241.63
56	421.38	248.87	305.94	244.63	393.64	306.18	251.02	245.03
57	427.84	252.16	310.12	247.92	399.50	310.56	254.51	248.42
58	434.30	255.45	314.30	251.23	405.35	314.94	258.02	251.82
59	440.76	258.74	318.48	254.52	411.20	319.31	261.51	255.20
60	447.24	262.04	322.65	257.81	417.04	323.69	265.01	258.59
61	453.70	265.33	326.83	261.10	422.90	328.06	268.50	261.99
62	460.16	268.62	331.01	264.40	428.75	332.44	272.01	265.38
63	466.63	271.92	335.20	267.69	434.60	336.81	275.50	268.77
64	473.10	275.22	339.37	270.98	440.44	341.19	278.99	272.16
65	479.56	278.51	343.55	274.28	446.30	345.57	282.49	275.56
66	486.02	281.80	347.73	277.58	452.15	349.94	285.99	278.95
67	.....	.....	.....	.....	.....	.....	.....	.....
68	.....	.....	.....	.....	.....	.....	.....	.....
69	.....	.....	.....	.....	.....	.....	.....	.....
70	.....	.....	.....	.....	.....	.....	.....	.....

Priority Mail Express International Commercial Plus Prices

Maximum weight (pounds)	Country price group								
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
0.5	42.00	51.30	56.26	65.16	59.78	59.84	60.69	57.58	55.49
1	45.90	55.52	60.47	66.50	61.60	63.64	66.39	62.94	60.19
2	50.78	59.52	65.95	71.78	65.60	68.34	72.87	68.10	64.91
3	55.67	63.51	71.44	77.06	69.61	73.04	79.37	73.26	69.61
4	60.57	67.51	76.92	82.35	73.61	77.73	85.86	78.43	74.31
5	65.46	71.51	82.40	87.64	77.60	82.43	92.35	83.59	79.02
6	70.35	74.40	86.40	92.92	81.61	87.23	98.83	88.66	83.43
7	75.23	77.21	90.41	98.21	85.61	92.02	105.33	93.72	87.84
8	80.13	80.03	94.40	103.49	89.62	96.82	111.82	98.78	92.25
9	85.02	82.85	98.40	108.78	93.61	101.61	118.31	103.84	96.65
10	89.91	85.66	102.41	114.07	97.61	106.41	124.79	108.91	101.07
11	94.14	88.47	105.97	119.30	101.62	111.21	131.42	113.42	105.47
12	98.82	91.29	109.52	124.54	105.62	116.01	137.91	118.47	109.98
13	103.49	94.11	113.08	129.77	109.62	120.80	144.41	123.50	114.48
14	108.16	96.93	116.64	135.01	113.62	125.60	150.90	128.54	118.99
15	112.83	99.74	120.19	140.24	117.62	130.40	157.40	133.58	123.49
16	117.50	102.46	123.75	145.49	121.63	135.19	163.90	138.62	128.00

PRIORITY MAIL EXPRESS INTERNATIONAL COMMERCIAL PLUS PRICES—Continued

Maximum weight (pounds)	Country price group								
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
17	122.17	105.18	127.31	150.72	125.62	139.98	170.39	143.66	132.50
18	126.84	107.89	130.86	155.96	129.63	144.78	176.88	148.70	137.00
19	131.51	110.60	134.42	161.19	133.63	149.58	183.39	153.73	141.50
20	136.19	113.33	137.98	166.43	137.63	154.38	189.88	158.78	146.02
21	140.85	116.04	141.81	171.66	141.63	159.17	196.38	163.81	150.52
22	145.52	118.76	145.37	176.90	145.63	163.97	202.87	168.85	155.02
23	150.19	121.47	148.93	182.14	149.64	168.77	209.37	173.89	159.52
24	154.87	124.20	152.50	187.38	153.64	173.57	215.87	178.93	164.03
25	159.53	126.91	156.06	192.61	157.63	178.35	222.36	183.97	168.53

Maximum weight (pounds)	Country price group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
0.5	64.72	62.24	61.20	62.24	61.21	62.98	60.75	62.30
1	67.53	64.07	68.17	64.17	63.03	66.57	63.90	64.14
2	73.70	68.37	73.46	67.38	69.11	70.88	66.92	66.96
3	79.88	72.66	78.75	70.60	75.19	75.20	69.94	69.77
4	86.06	76.97	84.03	73.81	81.27	79.52	72.96	72.59
5	92.23	81.27	89.32	77.01	87.34	83.84	75.97	75.41
6	98.60	84.57	94.31	80.33	93.07	88.26	78.90	78.16
7	104.98	87.88	99.30	83.64	99.22	92.67	81.82	80.96
8	111.35	91.20	104.28	86.94	105.35	97.09	84.74	83.78
9	117.72	94.50	109.27	90.25	111.50	101.51	87.65	86.60
10	124.09	97.81	114.26	93.57	117.65	105.93	90.58	89.42
11	130.56	101.12	118.47	96.88	124.19	110.34	94.09	92.82
12	137.04	104.44	122.66	100.18	130.72	114.76	97.60	96.23
13	143.51	107.74	126.86	103.49	137.26	119.18	101.12	99.64
14	149.98	111.05	131.06	106.81	143.80	123.60	104.64	103.05
15	156.45	114.36	135.26	110.12	150.34	128.01	108.15	106.45
16	162.93	117.68	139.45	113.42	156.87	132.43	111.66	109.87
17	169.40	120.98	143.66	116.73	163.42	136.85	115.17	113.28
18	175.86	124.29	147.86	120.05	169.96	141.27	118.69	116.69
19	182.33	127.60	152.06	123.35	176.50	145.68	122.21	120.09
20	188.81	130.92	156.25	126.66	183.03	150.10	125.72	123.50
21	195.47	134.09	160.45	129.97	188.89	154.52	129.23	126.91
22	201.94	137.40	164.65	133.29	194.74	158.94	132.75	130.32
23	208.42	140.70	168.85	136.59	200.58	163.35	136.26	133.72
24	214.90	144.02	173.05	139.90	206.43	167.77	139.77	137.13
25	221.38	147.32	177.25	143.21	212.29	172.20	143.29	140.55

Maximum weight (pounds)	Country price group								
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
26	164.20	129.63	159.62	197.85	161.64	183.15	228.86	189.01	173.03
27	168.87	132.34	163.19	203.08	165.64	187.95	235.36	194.04	177.54
28	173.55	135.06	166.75	208.32	169.64	192.75	241.85	199.09	182.05
29	178.22	137.78	170.31	213.55	173.64	197.54	248.35	204.12	186.55
30	182.88	140.49	173.88	218.80	177.64	202.34	254.84	209.16	191.05
31	186.77	142.79	177.95	224.03	181.65	207.14	261.34	214.20	195.55
32	190.66	145.51	181.53	229.27	185.65	211.94	267.84	219.24	200.06
33	194.54	148.22	185.10	234.50	189.64	216.73	274.33	224.28	204.57
34	198.42	150.92	188.67	239.74	193.65	221.52	280.83	229.32	209.07
35	202.30	153.63	192.25	244.97	197.65	226.32	287.33	234.35	213.57
36	206.19	156.35	195.82	250.21	201.66	231.12	293.82	239.40	218.08
37	210.07	159.06	199.40	255.44	205.65	235.91	300.32	244.43	222.58
38	213.96	161.76	202.97	260.69	209.65	240.71	306.81	249.48	227.08
39	217.84	164.47	206.54	265.92	213.66	245.51	313.31	254.51	231.58
40	221.73	167.19	210.12	271.16	217.66	250.31	319.81	259.55	236.10
41	225.61	170.06	213.69	276.39	221.66	253.63	326.30	262.04	239.44
42	229.49	172.76	217.27	281.63	225.66	258.40	332.80	267.04	243.92
43	233.37	175.47	220.84	286.86	229.66	263.17	339.30	272.02	248.40
44	237.26	178.19	224.41	292.10	233.67	267.94	345.79	277.02	252.89
45	241.14	180.90	227.99	297.34	237.66	272.70	352.29	282.00	257.37
46	245.03	183.61	231.56	302.58	241.66	277.47	358.78	287.00	261.85
47	248.91	186.32	235.14	307.81	245.67	282.24	365.29	291.98	266.33
48	252.80	189.04	238.71	313.05	249.67	287.02	371.78	296.98	270.82

Maximum weight (pounds)	Country price group								
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
49	256.68	191.75	242.28	318.28	253.67	291.78	378.27	301.97	275.30
50	260.56	194.46	245.86	323.52	257.67	296.55	384.77	306.96	279.78

Maximum weight (pounds)	Country price group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
26	227.85	150.62	181.45	146.53	218.14	176.62	146.81	143.96
27	234.33	153.93	185.65	149.83	223.98	181.03	150.32	147.36
28	240.81	157.24	189.84	153.14	229.83	185.45	153.83	150.77
29	247.29	160.55	194.04	156.45	235.69	189.87	157.34	154.18
30	253.76	163.85	198.24	159.76	241.54	194.29	160.86	157.59
31	260.24	167.15	202.45	163.07	247.39	198.70	164.38	160.84
32	266.73	170.47	206.64	166.38	253.23	203.12	167.89	164.25
33	273.20	173.77	210.84	169.69	259.09	207.54	171.40	167.65
34	279.68	177.08	215.04	173.00	264.94	211.96	174.92	171.06
35	286.15	180.38	219.24	176.31	270.79	216.37	178.43	174.46
36	292.64	183.70	223.43	179.62	276.63	220.79	181.94	177.87
37	299.11	187.00	227.64	182.93	282.49	225.21	185.46	181.27
38	305.59	190.30	231.84	186.24	288.34	229.63	188.98	184.68
39	312.06	193.61	236.04	189.55	294.19	234.04	192.49	188.08
40	318.55	196.92	240.23	192.86	300.04	238.46	196.00	191.49
41	325.02	200.23	244.43	196.16	305.89	241.72	199.13	194.52
42	331.50	203.53	248.63	199.48	311.74	246.12	202.64	197.92
43	337.97	206.83	252.83	202.79	317.59	250.50	206.15	201.31
44	344.46	210.15	257.03	206.10	323.44	254.90	209.65	204.71
45	350.93	213.45	261.23	209.40	329.30	259.30	213.16	208.12
46	357.41	216.76	265.43	212.72	335.14	263.70	216.67	211.52
47	363.88	220.06	269.63	216.03	340.99	268.09	220.18	214.91
48	370.37	223.37	273.82	219.34	346.84	272.49	223.68	218.31
49	376.84	226.68	278.02	222.64	352.70	276.89	227.19	221.71
50	383.32	229.98	282.22	225.96	358.54	281.29	230.70	225.11

Maximum weight (pounds)	Country price group								
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
51	264.44	196.79	249.43	325.59	261.67	302.78	391.27	311.95	284.26
52	268.33	199.50	253.00	330.78	265.68	307.57	397.76	316.94	288.75
53	272.22	202.21	256.58	335.97	269.67	312.35	404.26	321.93	293.23
54	276.10	204.91	260.15	341.16	273.68	317.15	410.75	326.92	297.71
55	279.98	207.61	263.73	346.34	277.68	321.94	417.26	331.91	302.19
56	283.87	210.33	267.30	351.53	281.68	326.74	423.75	336.90	306.68
57	287.75	213.03	270.87	356.71	285.68	331.52	430.24	341.89	311.16
58	291.63	215.74	274.45	361.90	289.68	336.32	436.74	346.88	315.64
59	295.51	218.44	278.02	367.08	293.69	341.11	443.24	351.87	320.12
60	299.40	221.15	281.60	372.27	297.69	345.90	449.73	356.86	324.61
61	303.29	223.43	285.17	377.45	301.68	350.69	456.23	361.85	329.09
62	307.17	226.13	288.74	382.65	305.69	355.48	462.72	366.84	333.57
63	311.05	228.82	292.32	387.83	309.69	360.28	469.23	371.83	338.05
64	314.94	231.53	295.89	393.02	313.70	365.07	475.72	376.83	342.54
65	318.82	234.23	299.47	398.20	317.69	369.86	482.21	381.81	347.02
66	322.70	236.93	303.04	403.39	321.69	374.65	488.71	386.81	351.50
67	.....	239.63	306.61	408.57	325.70	379.44	495.21	391.79	355.98
68	.....	242.34	310.19	413.76	329.70	384.24	501.70	396.79	360.47
69	.....	245.04	313.76	418.94	333.69	389.02	508.20	401.77	364.95
70	.....	247.74	317.34	424.13	337.70	393.82	514.69	406.77	369.43

Maximum weight (pounds)	Country price group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
51	389.04	232.39	285.05	228.17	364.39	284.30	233.53	228.06
52	395.52	235.69	289.22	231.46	370.24	288.68	237.03	231.46
53	401.98	238.98	293.40	234.75	376.10	293.06	240.52	234.85
54	408.44	242.27	297.58	238.05	381.95	297.44	244.03	238.25
55	414.90	245.56	301.76	241.34	387.79	301.81	247.52	241.63
56	421.38	248.87	305.94	244.63	393.64	306.18	251.02	245.03
57	427.84	252.16	310.12	247.92	399.50	310.56	254.51	248.42
58	434.30	255.45	314.30	251.23	405.35	314.94	258.02	251.82

Maximum weight (pounds)	Country price group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
59	440.76	258.74	318.48	254.52	411.20	319.31	261.51	255.20
60	447.24	262.04	322.65	257.81	417.04	323.69	265.01	258.59
61	453.70	265.33	326.83	261.10	422.90	328.06	268.50	261.99
62	460.16	268.62	331.01	264.40	428.75	332.44	272.01	265.38
63	466.63	271.92	335.20	267.69	434.60	336.81	275.50	268.77
64	473.10	275.22	339.37	270.98	440.44	341.19	278.99	272.16
65	479.56	278.51	343.55	274.28	446.30	345.57	282.49	275.56
66	486.02	281.80	347.73	277.58	452.15	349.94	285.99	278.95
67	.....	.....	.....	.....	.....	.....	.....	.....
68	.....	.....	.....	.....	.....	.....	.....	.....
69	.....	.....	.....	.....	.....	.....	.....	.....
70	.....	.....	.....	.....	.....	.....	.....	.....

Pickup On Demand Service

Add $23.00 for each Pickup On Demand stop.

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2315 Outbound Priority Mail International

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2315.6 Prices

PRIORITY MAIL INTERNATIONAL FLAT RATE RETAIL PRICES

	Country price group							
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)
Flat Rate Envelopes	25.85	32.20	33.60	35.65	34.65	36.70	34.65	35.65
Small Flat Rate Boxes	26.85	33.60	34.65	36.70	35.65	37.70	35.65	36.70
Medium Flat Rate Boxes	49.60	72.30	73.70	71.75	75.75	82.20	74.75	77.80
Large Flat Rate Boxes	64.50	94.25	96.30	94.25	98.35	103.85	97.35	101.80

PRIORITY MAIL INTERNATIONAL FLAT RATE COMMERCIAL BASE PRICES

	Country price group							
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)
Flat Rate Envelopes	24.55	30.60	31.90	33.85	32.90	34.85	32.90	33.85
Small Flat Rate Boxes	25.50	31.90	32.90	34.85	33.85	35.80	33.85	34.85
Medium Flat Rate Boxes	47.10	68.70	70.00	68.15	71.95	78.10	71.00	73.90
Large Flat Rate Boxes	61.30	89.55	91.50	89.55	93.45	98.65	92.50	96.70

PRIORITY MAIL INTERNATIONAL FLAT RATE COMMERCIAL PLUS PRICES

	Country price group							
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)
Flat Rate Envelopes	24.55	30.60	31.90	33.85	32.90	34.85	32.90	33.85
Small Flat Rate Boxes	25.50	31.90	32.90	34.85	33.85	35.80	33.85	34.85
Medium Flat Rate Boxes	47.10	68.70	70.00	68.15	71.95	78.10	71.00	73.90
Large Flat Rate Boxes	61.30	89.55	91.50	89.55	93.45	98.65	92.50	96.70

PRIORITY MAIL INTERNATIONAL PARCELS RETAIL PRICES

Maximum weight (pounds)	Country price group [1]						
	Origin Zone 1.1 & 1.2 ($)	Origin Zone 1.3 ($)	Origin Zone 1.4 ($)	Origin Zone 1.5 ($)	Origin Zone 1.6 ($)	Origin Zone 1.7 ($)	Origin Zone 1.8 ($)
1	34.30	35.30	37.85	39.05	40.45	41.05	41.55
2	37.05	38.25	40.80	42.20	43.70	44.20	44.80
3	39.80	41.20	43.75	45.35	46.95	47.35	48.05
4	42.55	44.15	46.70	48.50	50.25	50.50	51.30
5	45.30	47.15	49.65	51.70	53.50	53.65	54.55
6	48.05	50.00	52.70	54.85	56.55	56.95	58.05

PRIORITY MAIL INTERNATIONAL PARCELS RETAIL PRICES—Continued

Maximum weight (pounds)	Country price group [1]						
	Origin Zone 1.1 & 1.2 ($)	Origin Zone 1.3 ($)	Origin Zone 1.4 ($)	Origin Zone 1.5 ($)	Origin Zone 1.6 ($)	Origin Zone 1.7 ($)	Origin Zone 1.8 ($)
7	50.80	52.85	55.80	58.00	59.60	60.20	61.50
8	53.60	55.70	58.85	61.15	62.65	63.45	64.95
9	56.35	58.55	61.90	64.30	65.70	66.70	68.40
10	59.10	61.40	64.95	67.45	68.75	69.95	71.90
11	61.75	64.25	67.80	70.60	72.00	73.40	75.35
12	64.40	67.10	70.65	73.75	75.25	76.85	78.90
13	67.05	69.95	73.50	76.90	78.50	80.30	82.45
14	69.70	72.80	76.35	80.05	81.75	83.80	86.00
15	72.35	75.65	79.20	83.20	85.00	87.25	89.55
16	75.00	78.50	82.05	86.35	88.30	90.70	93.10
17	77.65	81.35	84.90	89.50	91.55	94.15	96.65
18	80.30	84.00	87.75	92.65	94.80	97.65	100.20
19	82.95	86.65	90.60	95.80	98.05	101.10	103.75
20	85.65	89.30	93.50	99.00	101.30	104.55	107.30
21	88.30	91.95	96.35	102.15	104.55	108.00	110.85
22	90.95	94.60	99.20	105.30	107.80	111.50	114.40
23	93.60	97.25	102.05	108.45	111.10	114.95	117.95
24	96.55	99.90	104.90	111.60	114.15	118.40	121.50
25	98.70	102.55	107.75	114.75	117.15	121.85	125.05

PRIORITY MAIL INTERNATIONAL PARCELS RETAIL PRICES (CONTINUED)

Maximum weight (pounds)	Country price group							
	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
1	41.80	45.30	51.55	47.80	49.30	51.10	46.30	44.45
2	45.55	50.70	57.00	51.20	53.70	57.10	50.95	49.20
3	49.30	56.05	62.50	54.55	58.05	63.10	55.60	53.95
4	53.05	61.40	67.95	57.90	62.40	69.10	60.25	58.75
5	56.80	66.75	73.40	61.25	66.75	75.15	64.95	63.50
6	59.55	70.20	78.45	64.10	70.60	81.15	68.90	67.15
7	62.35	73.65	83.50	66.95	74.45	87.15	72.85	70.80
8	65.10	77.10	88.55	69.80	78.30	93.15	76.80	74.45
9	67.85	80.55	93.65	72.65	82.15	99.20	80.75	78.15
10	70.60	84.00	98.70	75.50	86.00	105.20	84.70	81.80
11	73.05	87.45	103.75	78.35	90.25	111.40	88.85	85.25
12	75.50	90.95	108.80	81.20	94.50	117.60	93.00	88.70
13	77.95	94.40	113.85	84.05	98.75	123.80	97.15	92.15
14	80.40	97.85	118.90	86.90	103.00	130.00	101.35	95.60
15	82.85	101.30	124.00	89.75	107.30	136.20	105.50	99.05
16	85.30	104.75	129.05	92.60	111.55	142.40	109.65	102.40
17	87.75	108.20	134.10	95.45	115.80	148.60	113.80	105.75
18	90.20	111.65	139.15	98.30	120.05	154.80	117.95	109.10
19	92.70	115.10	144.20	101.20	124.30	161.00	122.15	112.45
20	95.15	118.55	149.25	104.05	128.55	167.20	126.30	115.80
21	97.60	122.00	154.35	106.90	132.85	173.40	130.45	119.15
22	100.05	125.45	159.40	109.75	137.10	179.60	134.60	122.50
23	102.50	128.90	164.45	112.60	141.35	185.80	138.75	125.90
24	104.95	132.35	169.50	115.45	145.60	192.05	142.95	129.25
25	107.40	135.80	174.55	118.30	149.85	198.25	147.10	132.60

PRIORITY MAIL INTERNATIONAL PARCELS RETAIL PRICES (CONTINUED)

Maximum weight (pounds)	Country price group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
1	50.60	52.60	51.80	43.60	50.55	46.45	44.10	43.10
2	55.35	57.25	55.45	47.65	55.40	50.30	47.85	47.15
3	60.10	61.90	59.15	51.75	60.25	54.15	51.65	51.20
4	64.85	66.55	62.80	55.80	65.10	58.00	55.40	55.25
5	69.60	71.20	66.45	59.85	70.00	61.85	59.15	59.35
6	74.95	74.55	69.60	63.25	73.75	65.75	62.70	62.20

PRIORITY MAIL INTERNATIONAL PARCELS RETAIL PRICES (CONTINUED)—Continued

Maximum weight (pounds)	Country price group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
7	80.30	77.90	72.75	66.60	77.50	69.60	66.25	65.05
8	85.65	81.25	75.90	69.95	81.25	73.45	69.85	67.90
9	91.00	84.60	79.05	73.30	85.00	77.30	73.40	70.75
10	96.40	87.95	82.20	76.70	88.80	81.15	76.95	73.60
11	101.65	91.20	85.40	79.30	92.55	85.40	79.00	76.25
12	106.90	94.45	88.55	81.95	96.30	89.65	81.05	78.90
13	112.15	97.70	91.70	84.60	100.05	93.95	83.10	81.55
14	117.40	100.95	94.85	87.25	103.85	98.20	85.15	84.25
15	122.65	104.20	98.00	89.90	107.60	102.45	87.20	86.90
16	127.95	107.45	101.15	92.55	111.05	106.70	89.25	89.55
17	133.20	110.70	104.30	95.20	114.50	110.95	91.30	92.20
18	138.45	113.95	107.45	97.85	117.95	115.25	93.35	94.85
19	143.70	117.20	110.60	100.50	121.40	119.50	95.40	97.50
20	148.95	120.50	113.75	103.15	124.85	123.75	97.40	100.15
21	154.20	123.75	116.90	105.75	128.30	128.00	99.45	102.80
22	159.50	127.00	120.05	108.40	131.75	132.25	101.50	105.45
23	164.75	130.25	123.20	111.05	135.20	136.55	103.55	108.10
24	170.00	133.50	126.35	113.70	138.65	140.80	105.60	110.75
25	175.25	136.75	129.50	116.35	142.10	145.05	107.65	113.40

PRIORITY MAIL INTERNATIONAL PARCELS RETAIL PRICES (CONTINUED)

Maximum weight (pounds)	Country price group [1]						
	Origin Zone 1.1 &1.2 ($)	Origin Zone 1.3 ($)	Origin Zone 1.4 ($)	Origin Zone 1.5 ($)	Origin Zone 1.6 ($)	Origin Zone 1.7 ($)	Origin Zone 1.8 ($)
26	100.85	105.20	110.60	117.80	120.20	125.10	128.65
27	103.00	107.85	113.45	120.85	123.25	128.35	132.20
28	105.15	110.50	116.30	123.90	126.30	131.60	135.75
29	107.30	113.15	119.15	126.95	129.35	134.85	139.30
30	109.45	115.80	122.00	130.00	132.40	138.10	142.85
31	111.60	118.45	124.85	133.05	135.45	141.30	146.40
32	113.75	121.10	127.70	136.10	138.50	144.55	149.95
33	115.90	123.75	130.55	139.15	141.55	147.80	153.50
34	118.05	126.40	133.45	142.20	144.60	151.05	157.05
35	120.20	129.05	136.30	145.30	147.65	154.30	160.60
36	122.35	131.65	139.15	148.35	150.70	157.55	164.15
37	124.50	134.30	142.00	151.40	153.75	160.80	167.70
38	126.60	136.95	144.85	154.45	156.80	164.05	171.25
39	128.75	139.60	147.70	157.50	159.85	167.30	174.80
40	130.90	142.25	150.55	160.55	162.90	170.55	178.35
41	133.05	144.90	153.40	163.60	165.95	173.80	181.90
42	135.20	147.55	156.25	166.65	169.00	177.05	185.45
43	137.35	150.20	159.10	169.70	172.05	180.25	189.05
44	139.50	152.85	161.95	172.75	175.10	183.50	192.60
45	141.65	155.50	164.80	175.80	178.15	186.75	196.15
46	143.80	158.15	167.65	178.85	181.20	190.00	199.70
47	145.95	160.80	170.55	181.90	184.25	193.25	203.25
48	148.10	163.45	173.40	184.95	187.30	196.50	206.80
49	150.25	166.10	176.25	188.05	190.35	199.75	210.35
50	152.40	168.75	179.10	191.10	193.40	203.00	213.90

PRIORITY MAIL INTERNATIONAL PARCELS RETAIL PRICES (CONTINUED)

Maximum weight (pounds)	Country price group							
	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
26	109.85	139.25	179.60	121.15	154.15	204.45	151.25	135.95
27	112.30	142.70	184.70	124.00	158.40	210.65	155.40	139.30
28	114.75	146.15	189.75	126.85	162.65	216.85	159.55	142.65
29	117.20	149.65	194.80	129.70	166.90	223.05	163.75	146.00
30	119.65	153.10	199.85	132.55	171.15	229.25	167.90	149.35
31	122.15	156.55	204.90	135.40	175.45	235.45	172.05	152.70

PRIORITY MAIL INTERNATIONAL PARCELS RETAIL PRICES (CONTINUED)—Continued

Maximum weight (pounds)	Country price group							
	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
32	124.60	160.00	210.00	138.30	179.70	241.65	176.20	156.05
33	127.05	163.45	215.05	141.15	183.95	247.85	180.35	159.40
34	129.50	166.90	220.10	144.00	188.20	254.05	184.55	162.75
35	131.95	170.35	225.15	146.85	192.45	260.25	188.70	166.10
36	134.40	173.80	230.20	149.70	196.75	266.45	192.85	169.45
37	136.85	177.25	235.25	152.55	201.00	272.65	197.00	172.80
38	139.30	180.70	240.35	155.40	205.25	278.85	201.15	176.15
39	141.75	184.15	245.40	158.25	209.50	285.10	205.35	179.55
40	144.20	187.60	250.45	161.10	213.75	291.30	209.50	182.90
41	146.65	191.05	255.50	163.95	218.05	297.50	213.65	186.25
42	149.15	194.50	260.55	166.80	222.30	303.70	217.80	189.60
43	151.60	197.95	265.60	169.65	226.55	309.90	221.95	192.95
44	154.05	201.40	270.70	172.50	230.80	316.10	226.15	196.30
45	156.50	204.85	275.75	175.35	235.05	322.30	230.30	199.65
46	158.95	208.35	280.80	178.25	239.35	328.50	234.45	203.00
47	161.40	211.80	285.85	181.10	243.60	334.70	238.60	206.35
48	163.85	215.25	290.90	183.95	247.85	340.90	242.75	209.70
49	166.30	218.70	295.95	186.80	252.10	347.10	246.95	213.05
50	168.75	222.15	301.05	189.65	256.35	353.30	251.10	216.40

PRIORITY MAIL INTERNATIONAL PARCELS RETAIL PRICES (CONTINUED)

Maximum weight (pounds)	Country price group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
26	180.50	140.00	132.70	119.00	145.55	149.30	109.70	116.10
27	185.75	143.25	135.85	121.65	149.00	153.55	111.75	118.75
28	191.05	146.50	139.00	124.30	152.45	157.85	113.80	121.40
29	196.30	149.75	142.15	126.95	155.95	162.10	115.85	124.05
30	201.55	153.00	145.30	129.60	159.40	166.35	117.90	126.70
31	206.80	156.25	148.45	132.25	162.85	170.60	119.95	129.35
32	212.05	159.50	151.60	134.90	166.30	174.85	122.00	132.00
33	217.30	162.75	154.75	137.55	169.75	179.15	124.05	134.65
34	222.60	166.00	157.90	140.20	173.20	183.40	126.10	137.30
35	227.85	169.30	161.05	142.85	176.65	187.65	128.15	139.95
36	233.10	172.55	164.20	145.50	180.10	191.90	130.20	142.60
37	238.35	175.80	167.35	148.15	183.55	196.15	132.25	145.25
38	243.60	179.05	170.50	150.80	187.00	200.45	134.30	147.95
39	248.85	182.30	173.65	153.45	190.45	204.70	136.35	150.60
40	254.15	185.55	176.80	156.10	193.90	208.95	138.40	153.25
41	259.40	188.90	180.00	158.75	197.35	213.20	140.45	155.90
42	264.65	192.25	183.15	161.40	200.80	217.50	142.50	158.55
43	269.90	195.60	186.30	164.05	204.25	221.75	144.55	161.20
44	275.15	199.00	189.45	166.70	207.70	226.00	146.60	163.85
45	280.40	202.35	192.60	169.35	211.15	230.25	148.65	166.50
46	285.70	205.70	195.75	171.95	214.60	234.50	150.70	169.15
47	290.95	209.05	198.90	174.60	218.10	238.80	152.75	171.80
48	296.20	212.45	202.05	177.25	221.55	243.05	154.80	174.45
49	301.45	215.80	205.20	179.90	225.00	247.30	156.80	177.10
50	306.70	219.15	208.35	182.55	228.45	251.55	158.85	179.75

PRIORITY MAIL INTERNATIONAL PARCELS RETAIL PRICES (CONTINUED)

Maximum weight (pounds)	Country price group [1]						
	Origin Zone 1.1 &1.2 ($)	Origin Zone 1.3 ($)	Origin Zone 1.4 ($)	Origin Zone 1.5 ($)	Origin Zone 1.6 ($)	Origin Zone 1.7 ($)	Origin Zone 1.8 ($)
51	154.55	171.40	181.95	193.95	196.45	206.25	217.45
52	156.70	174.05	184.80	196.80	199.50	209.50	221.00
53	158.85	176.70	187.65	199.65	202.55	212.75	224.55
54	161.00	179.35	190.50	202.50	205.60	216.00	228.10
55	163.15	182.00	193.35	205.35	208.65	219.25	231.65
56	165.30	184.65	196.20	208.20	211.70	222.50	235.20

PRIORITY MAIL INTERNATIONAL PARCELS RETAIL PRICES (CONTINUED)—Continued

Maximum weight (pounds)	Country price group [1]						
	Origin Zone 1.1 &1.2 ($)	Origin Zone 1.3 ($)	Origin Zone 1.4 ($)	Origin Zone 1.5 ($)	Origin Zone 1.6 ($)	Origin Zone 1.7 ($)	Origin Zone 1.8 ($)
57	167.45	187.30	199.05	211.05	214.75	225.75	238.75
58	169.60	189.95	201.90	213.90	217.85	229.00	242.30
59	171.75	192.60	204.75	216.75	220.90	232.25	245.85
60	173.90	195.25	207.65	219.60	223.95	235.50	249.40
61	176.05	197.90	210.50	222.45	227.00	238.75	253.00
62	178.20	200.55	213.35	225.35	230.05	242.00	256.55
63	180.35	203.20	216.20	228.20	233.10	245.20	260.10
64	182.50	205.85	219.05	231.05	236.15	248.45	263.65
65	184.65	208.50	221.90	233.90	239.20	251.70	267.20
66	186.80	211.15	224.75	236.75	242.25	254.95	270.75
67							
68							
69							
70							

PRIORITY MAIL INTERNATIONAL PARCELS RETAIL PRICES (CONTINUED)

Maximum weight (pounds)	Country price group							
	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
51	171.20	225.60	306.10	192.50	260.65	359.50	255.25	219.75
52	173.65	229.05	311.15	195.35	264.90	365.70	259.40	223.10
53	176.15	232.50	316.20	198.20	269.15	371.95	263.60	226.45
54	178.60	235.95	321.25	201.05	273.40	378.15	267.75	229.80
55	181.05	239.40	326.30	203.90	277.70	384.35	271.90	233.20
56	183.50	242.85	331.40	206.75	281.95	390.55	276.05	236.55
57	185.95	246.30	336.45	209.60	286.20	396.75	280.20	239.90
58	188.40	249.75	341.50	212.45	290.45	402.95	284.40	243.25
59	190.85	253.20	346.55	215.35	294.70	409.15	288.55	246.60
60	193.30	256.65	351.60	218.20	299.00	415.35	292.70	249.95
61	195.75	260.10	356.70	221.05	303.25	421.55	296.85	253.30
62	198.20	263.60	361.75	223.90	307.50	427.75	301.00	256.65
63	200.65	267.05	366.80	226.75	311.75	433.95	305.20	260.00
64	203.15	270.50	371.85	229.60	316.00	440.15	309.35	263.35
65	205.60	273.95	376.90	232.45	320.30	446.35	313.50	266.70
66	208.05	277.40	381.95	235.30	324.55	452.55	317.65	270.05
67	210.50	280.85	387.05	238.15	328.80	458.80	321.80	273.40
68	212.95	284.30	392.10	241.00	333.05	465.00	326.00	276.75
69	215.40	287.75	397.15	243.85	337.30	471.20	330.15	280.10
70	217.85	291.20	402.20	246.70	341.60	477.40	334.30	283.45

PRIORITY MAIL INTERNATIONAL PARCELS RETAIL PRICES (CONTINUED)

Maximum weight (pounds)	Country price group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
51	311.95	222.50	211.50	185.20	231.90	255.80	160.90	182.45
52	317.20	225.85	214.65	187.85	235.35	260.10	162.95	185.10
53	322.50	229.25	217.80	190.50	238.80	264.35	165.00	187.75
54	327.75	232.60	220.95	193.15	242.25	268.60	167.05	190.40
55	333.00	235.95	224.10	195.80	245.70	272.85	169.10	193.05
56	338.25	239.30	227.30	198.45	249.15	277.10	171.15	195.70
57	343.50	242.70	230.45	201.10	252.60	281.40	173.20	198.35
58	348.75	246.05	233.60	203.75	256.05	285.65	175.25	201.00
59	354.05	249.40	236.75	206.40	259.50	289.90	177.30	203.65
60	359.30	252.75	239.90	209.05	262.95	294.15	179.35	206.30
61	364.55	256.10	243.05	211.70	266.40	298.40	181.40	208.95
62	369.80	259.50	246.20	214.35	269.85	302.70	183.45	211.60
63	375.05	262.85	249.35	217.00	273.30	306.95	185.50	214.30
64	380.30	266.20	252.50	219.65	276.80	311.20	187.55	216.95
65	385.60	269.55	255.65	222.30	280.25	315.45	189.60	219.60
66	390.85	272.95	258.80	224.95	283.70	319.70	191.65	222.25

PRIORITY MAIL INTERNATIONAL PARCELS RETAIL PRICES (CONTINUED)—Continued

Maximum weight (pounds)	Country price group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
67							193.70	
68							195.75	
69							197.80	
70							199.85	

Notes:
1. The applicable Origin Zone for pieces destined to Canada is based on the applicable zone from the origin point to the serving International Service Center (ISC). In future releases, distance to and within Canada could be considered for application of the appropriate Origin Zone group.

PRIORITY MAIL INTERNATIONAL PARCELS COMMERCIAL BASE PRICES

Maximum weight (pounds)	Country price group [1]						
	Origin Zone 1.1 &1.2 ($)	Origin Zone 1.3 ($)	Origin Zone 1.4 ($)	Origin Zone 1.5 ($)	Origin Zone 1.6 ($)	Origin Zone 1.7 ($)	Origin Zone 1.8 ($)
1	32.59	33.54	35.96	37.10	38.43	39.00	39.47
2	35.20	36.34	38.76	40.09	41.52	41.99	42.56
3	37.81	39.14	41.56	43.08	44.60	44.98	45.65
4	40.42	41.94	44.37	46.08	47.74	47.98	48.74
5	43.04	44.79	47.17	49.12	50.83	50.97	51.82
6	45.65	47.50	50.07	52.11	53.72	54.10	55.15
7	48.26	50.21	53.01	55.10	56.62	57.19	58.43
8	50.92	52.92	55.91	58.09	59.52	60.28	61.70
9	53.53	55.62	58.81	61.09	62.42	63.37	64.98
10	56.15	58.33	61.70	64.08	65.31	66.45	68.31
11	58.66	61.04	64.41	67.07	68.40	69.73	71.58
12	61.18	63.75	67.12	70.06	71.49	73.01	74.96
13	63.70	66.45	69.83	73.06	74.58	76.29	78.33
14	66.22	69.16	72.53	76.05	77.66	79.61	81.70
15	68.73	71.87	75.24	79.04	80.75	82.89	85.07
16	71.25	74.58	77.95	82.03	83.89	86.17	88.45
17	73.77	77.28	80.66	85.03	86.97	89.44	91.82
18	76.29	79.80	83.36	88.02	90.06	92.77	95.19
19	78.80	82.32	86.07	91.01	93.15	96.05	98.56
20	81.37	84.84	88.83	94.05	96.24	99.32	101.94
21	83.89	87.35	91.53	97.04	99.32	102.60	105.31
22	86.40	89.87	94.24	100.04	102.41	105.93	108.68
23	88.92	92.39	96.95	103.03	105.55	109.20	112.05
24	91.72	94.91	99.66	106.02	108.44	112.48	115.43
25	93.77	97.42	102.36	109.01	111.29	115.76	118.80

PRIORITY MAIL INTERNATIONAL PARCELS COMMERCIAL BASE PRICES (CONTINUED)

Maximum weight (pounds)	Country price group							
	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
1	39.71	43.04	48.97	45.41	46.84	48.55	43.99	42.23
2	43.27	48.17	54.15	48.64	51.02	54.25	48.40	46.74
3	46.84	53.25	59.38	51.82	55.15	59.95	52.82	51.25
4	50.40	58.33	64.55	55.01	59.28	65.65	57.24	55.81
5	53.96	63.41	69.73	58.19	63.41	71.39	61.70	60.33
6	56.57	66.69	74.53	60.90	67.07	77.09	65.46	63.79
7	59.23	69.97	79.33	63.60	70.73	82.79	69.21	67.26
8	61.85	73.25	84.12	66.31	74.39	88.49	72.96	70.73
9	64.46	76.52	88.97	69.02	78.04	94.24	76.71	74.24
10	67.07	79.80	93.77	71.73	81.70	99.94	80.47	77.71
11	69.40	83.08	98.56	74.43	85.74	105.83	84.41	80.99
12	71.73	86.40	103.36	77.14	89.78	111.72	88.35	84.27
13	74.05	89.68	108.16	79.85	93.81	117.61	92.29	87.54
14	76.38	92.96	112.96	82.56	97.85	123.50	96.28	90.82
15	78.71	96.24	117.80	85.26	101.94	129.39	100.23	94.10
16	81.04	99.51	122.60	87.97	105.97	135.28	104.17	97.28
17	83.36	102.79	127.40	90.68	110.01	141.17	108.11	100.46
18	85.69	106.07	132.19	93.39	114.05	147.06	112.05	103.65
19	88.07	109.35	136.99	96.14	118.09	152.95	116.04	106.83

PRIORITY MAIL INTERNATIONAL PARCELS COMMERCIAL BASE PRICES (CONTINUED)—Continued

Maximum weight (pounds)	Country price group							
	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
20	90.39	112.62	141.79	98.85	122.12	158.84	119.99	110.01
21	92.72	115.90	146.63	101.56	126.21	164.73	123.93	113.19
22	95.05	119.18	151.43	104.26	130.25	170.62	127.87	116.38
23	97.38	122.46	156.23	106.97	134.28	176.51	131.81	119.61
24	99.70	125.73	161.03	109.68	138.32	182.45	135.80	122.79
25	102.03	129.01	165.82	112.39	142.36	188.34	139.75	125.97

PRIORITY MAIL INTERNATIONAL PARCELS COMMERCIAL BASE PRICES (CONTINUED)

Maximum weight (pounds)	Country price group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
1	48.07	49.97	49.21	41.42	48.02	44.13	41.90	40.95
2	52.58	54.39	52.68	45.27	52.63	47.79	45.46	44.79
3	57.10	58.81	56.19	49.16	57.24	51.44	49.07	48.64
4	61.61	63.22	59.66	53.01	61.85	55.10	52.63	52.49
5	66.12	67.64	63.13	56.86	66.50	58.76	56.19	56.38
6	71.20	70.82	66.12	60.09	70.06	62.46	59.57	59.09
7	76.29	74.01	69.11	63.27	73.63	66.12	62.94	61.80
8	81.37	77.19	72.11	66.45	77.19	69.78	66.36	64.51
9	86.45	80.37	75.10	69.64	80.75	73.44	69.73	67.21
10	91.58	83.55	78.09	72.87	84.36	77.09	73.10	69.92
11	96.57	86.64	81.13	75.34	87.92	81.13	75.05	72.44
12	101.56	89.73	84.12	77.85	91.49	85.17	77.00	74.96
13	106.54	92.82	87.12	80.37	95.05	89.25	78.95	77.47
14	111.53	95.90	90.11	82.89	98.66	93.29	80.89	80.04
15	116.52	98.99	93.10	85.41	102.22	97.33	82.84	82.56
16	121.55	102.08	96.09	87.92	105.50	101.37	84.79	85.07
17	126.54	105.17	99.09	90.44	108.78	105.40	86.74	87.59
18	131.53	108.25	102.08	92.96	112.05	109.49	88.68	90.11
19	136.52	111.34	105.07	95.48	115.33	113.53	90.63	92.63
20	141.50	114.48	108.06	97.99	118.61	117.56	92.53	95.14
21	146.49	117.56	111.06	100.46	121.89	121.60	94.48	97.66
22	151.53	120.65	114.05	102.98	125.16	125.64	96.43	100.18
23	156.51	123.74	117.04	105.50	128.44	129.72	98.37	102.70
24	161.50	126.83	120.03	108.02	131.72	133.76	100.32	105.21
25	166.49	129.91	123.03	110.53	135.00	137.80	102.27	107.73

PRIORITY MAIL INTERNATIONAL PARCELS COMMERCIAL BASE PRICES (CONTINUED)

Maximum weight (pounds)	Country price group [1]						
	Origin zone 1.1 &1.2 ($)	Origin zone 1.3 ($)	Origin zone 1.4 ($)	Origin zone 1.5 ($)	Origin zone 1.6 ($)	Origin zone 1.7 ($)	Origin zone 1.8 ($)
26	95.81	99.94	105.07	111.91	114.19	118.85	122.22
27	97.85	102.46	107.78	114.81	117.09	121.93	125.59
28	99.89	104.98	110.49	117.71	119.99	125.02	128.96
29	101.94	107.49	113.19	120.60	122.88	128.11	132.34
30	103.98	110.01	115.90	123.50	125.78	131.20	135.71
31	106.02	112.53	118.61	126.40	128.68	134.24	139.08
32	108.06	115.05	121.32	129.30	131.58	137.32	142.45
33	110.11	117.56	124.02	132.19	134.47	140.41	145.83
34	112.15	120.08	126.78	135.09	137.37	143.50	149.20
35	114.19	122.60	129.49	138.04	140.27	146.59	152.57
36	116.23	125.07	132.19	140.93	143.17	149.67	155.94
37	118.28	127.59	134.90	143.83	146.06	152.76	159.32
38	120.27	130.10	137.61	146.73	148.96	155.85	162.69
39	122.31	132.62	140.32	149.63	151.86	158.94	166.06
40	124.36	135.14	143.02	152.52	154.76	162.02	169.43
41	126.40	137.66	145.73	155.42	157.65	165.11	172.81
42	128.44	140.17	148.44	158.32	160.55	168.20	176.18
43	130.48	142.69	151.15	161.22	163.45	171.24	179.60
44	132.53	145.21	153.85	164.11	166.35	174.33	182.97

PRIORITY MAIL INTERNATIONAL PARCELS COMMERCIAL BASE PRICES (CONTINUED)—Continued

Maximum weight (pounds)	Country price group [1]						
	Origin zone 1.1 &1.2 ($)	Origin zone 1.3 ($)	Origin zone 1.4 ($)	Origin zone 1.5 ($)	Origin zone 1.6 ($)	Origin zone 1.7 ($)	Origin zone 1.8 ($)
45	134.57	147.73	156.56	167.01	169.24	177.41	186.34
46	136.61	150.24	159.27	169.91	172.14	180.50	189.72
47	138.65	152.76	162.02	172.81	175.04	183.59	193.09
48	140.70	155.28	164.73	175.70	177.94	186.68	196.46
49	142.74	157.80	167.44	178.65	180.83	189.76	199.83
50	144.78	160.31	170.15	181.55	183.73	192.85	203.21

PRIORITY MAIL INTERNATIONAL PARCELS COMMERCIAL BASE PRICES (CONTINUED)

Maximum weight (pounds)	Country price group							
	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
26	104.36	132.29	170.62	115.09	146.44	194.23	143.69	129.15
27	106.69	135.57	175.47	117.80	150.48	200.12	147.63	132.34
28	109.01	138.84	180.26	120.51	154.52	206.01	151.57	135.52
29	111.34	142.17	185.06	123.22	158.56	211.90	155.56	138.70
30	113.67	145.45	189.86	125.92	162.59	217.79	159.51	141.88
31	116.04	148.72	194.66	128.63	166.68	223.68	163.45	145.07
32	118.37	152.00	199.50	131.39	170.72	229.57	167.39	148.25
33	120.70	155.28	204.30	134.09	174.75	235.46	171.33	151.43
34	123.03	158.56	209.10	136.80	178.79	241.35	175.32	154.61
35	125.35	161.83	213.89	139.51	182.83	247.24	179.27	157.80
36	127.68	165.11	218.69	142.22	186.91	253.13	183.21	160.98
37	130.01	168.39	223.49	144.92	190.95	259.02	187.15	164.16
38	132.34	171.67	228.33	147.63	194.99	264.91	191.09	167.34
39	134.66	174.94	233.13	150.34	199.03	270.85	195.08	170.57
40	136.99	178.22	237.93	153.05	203.06	276.74	199.03	173.76
41	139.32	181.50	242.73	155.75	207.15	282.63	202.97	176.94
42	141.69	184.78	247.52	158.46	211.19	288.52	206.91	180.12
43	144.02	188.05	252.32	161.17	215.22	294.41	210.85	183.30
44	146.35	191.33	257.17	163.88	219.26	300.30	214.84	186.49
45	148.68	194.61	261.96	166.58	223.30	306.19	218.79	189.67
46	151.00	197.93	266.76	169.34	227.38	312.08	222.73	192.85
47	153.33	201.21	271.56	172.05	231.42	317.97	226.67	196.03
48	155.66	204.49	276.36	174.75	235.46	323.86	230.61	199.22
49	157.99	207.77	281.15	177.46	239.50	329.75	234.60	202.40
50	160.31	211.04	286.00	180.17	243.53	335.64	238.55	205.58

PRIORITY MAIL INTERNATIONAL PARCELS COMMERCIAL BASE PRICES (CONTINUED)

Maximum Weight (pounds)	Country price group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
26	171.48	133.00	126.07	113.05	138.27	141.84	104.22	110.30
27	176.46	136.09	129.06	115.57	141.55	145.87	106.16	112.81
28	181.50	139.18	132.05	118.09	144.83	149.96	108.11	115.33
29	186.49	142.26	135.04	120.60	148.15	154.00	110.06	117.85
30	191.47	145.35	138.04	123.12	151.43	158.03	112.01	120.37
31	196.46	148.44	141.03	125.64	154.71	162.07	113.95	122.88
32	201.45	151.53	144.02	128.16	157.99	166.11	115.90	125.40
33	206.44	154.61	147.01	130.67	161.26	170.19	117.85	127.92
34	211.47	157.70	150.01	133.19	164.54	174.23	119.80	130.44
35	216.46	160.84	153.00	135.71	167.82	178.27	121.74	132.95
36	221.45	163.92	155.99	138.23	171.10	182.31	123.69	135.47
37	226.43	167.01	158.98	140.74	174.37	186.34	125.64	137.99
38	231.42	170.10	161.98	143.26	177.65	190.43	127.59	140.55
39	236.41	173.19	164.97	145.78	180.93	194.47	129.53	143.07
40	241.44	176.27	167.96	148.30	184.21	198.50	131.48	145.59
41	246.43	179.46	171.00	150.81	187.48	202.54	133.43	148.11
42	251.42	182.64	173.99	153.33	190.76	206.63	135.38	150.62
43	256.41	185.82	176.99	155.85	194.04	210.66	137.32	153.14
44	261.39	189.05	179.98	158.37	197.32	214.70	139.27	155.66

PRIORITY MAIL INTERNATIONAL PARCELS COMMERCIAL BASE PRICES (CONTINUED)—Continued

Maximum Weight (pounds)	Country price group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
45	266.38	192.23	182.97	160.88	200.59	218.74	141.22	158.18
46	271.42	195.42	185.96	163.35	203.87	222.78	143.17	160.69
47	276.40	198.60	188.96	165.87	207.20	226.86	145.11	163.21
48	281.39	201.83	191.95	168.39	210.47	230.90	147.06	165.73
49	286.38	205.01	194.94	170.91	213.75	234.94	148.96	168.25
50	291.37	208.19	197.93	173.42	217.03	238.97	150.91	170.76

PRIORITY MAIL INTERNATIONAL PARCELS COMMERCIAL BASE PRICES (CONTINUED)

Maximum weight (pounds)	Country price group [1]						
	Origin zone 1.1 &1.2 ($)	Origin zone 1.3 ($)	Origin zone 1.4 ($)	Origin zone 1.5 ($)	Origin zone 1.6 ($)	Origin Zone 1.7 ($)	Origin Zone 1.8 ($)
51	146.82	162.83	172.85	184.25	186.63	195.94	206.58
52	148.87	165.35	175.56	186.96	189.53	199.03	209.95
53	150.91	167.87	178.27	189.67	192.42	202.11	213.32
54	152.95	170.38	180.98	192.38	195.32	205.20	216.70
55	154.99	172.90	183.68	195.08	198.22	208.29	220.07
56	157.04	175.42	186.39	197.79	201.12	211.38	223.44
57	159.08	177.94	189.10	200.50	204.01	214.46	226.81
58	161.12	180.45	191.81	203.21	206.96	217.55	230.19
59	163.16	182.97	194.51	205.91	209.86	220.64	233.56
60	165.21	185.49	197.27	208.62	212.75	223.73	236.93
61	167.25	188.01	199.98	211.33	215.65	226.81	240.35
62	169.29	190.52	202.68	214.08	218.55	229.90	243.72
63	171.33	193.04	205.39	216.79	221.45	232.94	247.10
64	173.38	195.56	208.10	219.50	224.34	236.03	250.47
65	175.42	198.08	210.81	222.21	227.24	239.12	253.84
66	177.46	200.59	213.51	224.91	230.14	242.20	257.21
67	.....	.....	.....	.....	.....	.....	.....
68	.....	.....	.....	.....	.....	.....	.....
69	.....	.....	.....	.....	.....	.....	.....
70	.....	.....	.....	.....	.....	.....	.....

PRIORITY MAIL INTERNATIONAL PARCELS COMMERCIAL BASE PRICES (CONTINUED)

Maximum weight (pounds)	Country price group							
	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
51	162.64	214.32	290.80	182.88	247.62	341.53	242.49	208.76
52	164.97	217.60	295.59	185.58	251.66	347.42	246.43	211.95
53	167.34	220.88	300.39	188.29	255.69	353.35	250.42	215.13
54	169.67	224.15	305.19	191.00	259.73	359.24	254.36	218.31
55	172.00	227.43	309.99	193.71	263.82	365.13	258.31	221.54
56	174.33	230.71	314.83	196.41	267.85	371.02	262.25	224.72
57	176.65	233.99	319.63	199.12	271.89	376.91	266.19	227.91
58	178.98	237.26	324.43	201.83	275.93	382.80	270.18	231.09
59	181.31	240.54	329.22	204.58	279.97	388.69	274.12	234.27
60	183.64	243.82	334.02	207.29	284.05	394.58	278.07	237.45
61	185.96	247.10	338.87	210.00	288.09	400.47	282.01	240.64
62	188.29	250.42	343.66	212.71	292.13	406.36	285.95	243.82
63	190.62	253.70	348.46	215.41	296.16	412.25	289.94	247.00
64	192.99	256.98	353.26	218.12	300.20	418.14	293.88	250.18
65	195.32	260.25	358.06	220.83	304.29	424.03	297.83	253.37
66	197.65	263.53	362.85	223.54	308.32	429.92	301.77	256.55
67	199.98	266.81	367.70	226.24	312.36	435.86	305.71	259.73
68	202.30	270.09	372.50	228.95	316.40	441.75	309.70	262.91
69	204.63	273.36	377.29	231.66	320.44	447.64	313.64	266.10
70	206.96	276.64	382.09	234.37	324.52	453.53	317.59	269.28

PRIORITY MAIL INTERNATIONAL PARCELS COMMERCIAL BASE PRICES (CONTINUED)

Maximum weight (pounds)	Country price group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
51	296.35	211.38	200.93	175.94	220.31	243.01	152.86	173.33
52	301.34	214.56	203.92	178.46	223.58	247.10	154.80	175.85
53	306.38	217.79	206.91	180.98	226.86	251.13	156.75	178.36
54	311.36	220.97	209.90	183.49	230.14	255.17	158.70	180.88
55	316.35	224.15	212.90	186.01	233.42	259.21	160.65	183.40
56	321.34	227.34	215.94	188.53	236.69	263.25	162.59	185.92
57	326.33	230.57	218.93	191.05	239.97	267.33	164.54	188.43
58	331.31	233.75	221.92	193.56	243.25	271.37	166.49	190.95
59	336.35	236.93	224.91	196.08	246.53	275.41	168.44	193.47
60	341.34	240.11	227.91	198.60	249.80	279.44	170.38	195.99
61	346.32	243.30	230.90	201.12	253.08	283.48	172.33	198.50
62	351.31	246.53	233.89	203.63	256.36	287.57	174.28	201.02
63	356.30	249.71	236.88	206.15	259.64	291.60	176.23	203.59
64	361.29	252.89	239.88	208.67	262.96	295.64	178.17	206.10
65	366.32	256.07	242.87	211.19	266.24	299.68	180.12	208.62
66	371.31	259.30	245.86	213.70	269.52	303.72	182.07	211.14
67	.....	.....	.....	.....	.....	.....	184.02	.....
68	.....	.....	.....	.....	.....	.....	185.96	.....
69	.....	.....	.....	.....	.....	.....	187.91	.....
70	.....	.....	.....	.....	.....	.....	189.86	.....

Notes:
1. The applicable Origin Zone for pieces destined to Canada is based on the applicable zone from the origin point to the serving International Service Center (ISC). In future releases, distance to and within Canada could be considered for application of the appropriate Origin Zone group.

PRIORITY MAIL INTERNATIONAL PARCELS COMMERCIAL PLUS PRICES

Maximum weight (pounds)	Country price group [1]						
	Origin zone 1.1 &1.2 ($)	Origin zone 1.3 ($)	Origin zone 1.4 ($)	Origin zone 1.5 ($)	Origin zone 1.6 ($)	Origin zone 1.7 ($)	Origin zone 1.8 ($)
1	32.59	33.54	35.96	37.10	38.43	39.00	39.47
2	35.20	36.34	38.76	40.09	41.52	41.99	42.56
3	37.81	39.14	41.56	43.08	44.60	44.98	45.65
4	40.42	41.94	44.37	46.08	47.74	47.98	48.74
5	43.04	44.79	47.17	49.12	50.83	50.97	51.82
6	45.65	47.50	50.07	52.11	53.72	54.10	55.15
7	48.26	50.21	53.01	55.10	56.62	57.19	58.43
8	50.92	52.92	55.91	58.09	59.52	60.28	61.70
9	53.53	55.62	58.81	61.09	62.42	63.37	64.98
10	56.15	58.33	61.70	64.08	65.31	66.45	68.31
11	58.66	61.04	64.41	67.07	68.40	69.73	71.58
12	61.18	63.75	67.12	70.06	71.49	73.01	74.96
13	63.70	66.45	69.83	73.06	74.58	76.29	78.33
14	66.22	69.16	72.53	76.05	77.66	79.61	81.70
15	68.73	71.87	75.24	79.04	80.75	82.89	85.07
16	71.25	74.58	77.95	82.03	83.89	86.17	88.45
17	73.77	77.28	80.66	85.03	86.97	89.44	91.82
18	76.29	79.80	83.36	88.02	90.06	92.77	95.19
19	78.80	82.32	86.07	91.01	93.15	96.05	98.56
20	81.37	84.84	88.83	94.05	96.24	99.32	101.94
21	83.89	87.35	91.53	97.04	99.32	102.60	105.31
22	86.40	89.87	94.24	100.04	102.41	105.93	108.68
23	88.92	92.39	96.95	103.03	105.55	109.20	112.05
24	91.72	94.91	99.66	106.02	108.44	112.48	115.43
25	93.77	97.42	102.36	109.01	111.29	115.76	118.80

PRIORITY MAIL INTERNATIONAL PARCELS COMMERCIAL PLUS PRICES (CONTINUED)

Maximum weight (pounds)	Country price group							
	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
1	39.71	43.04	48.97	45.41	46.84	48.55	43.99	42.23
2	43.27	48.17	54.15	48.64	51.02	54.25	48.40	46.74
3	46.84	53.25	59.38	51.82	55.15	59.95	52.82	51.25

PRIORITY MAIL INTERNATIONAL PARCELS COMMERCIAL PLUS PRICES (CONTINUED)—Continued

Maximum weight (pounds)	Country price group							
	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
4	50.40	58.33	64.55	55.01	59.28	65.65	57.24	55.81
5	53.96	63.41	69.73	58.19	63.41	71.39	61.70	60.33
6	56.57	66.69	74.53	60.90	67.07	77.09	65.46	63.79
7	59.23	69.97	79.33	63.60	70.73	82.79	69.21	67.26
8	61.85	73.25	84.12	66.31	74.39	88.49	72.96	70.73
9	64.46	76.52	88.97	69.02	78.04	94.24	76.71	74.24
10	67.07	79.80	93.77	71.73	81.70	99.94	80.47	77.71
11	69.40	83.08	98.56	74.43	85.74	105.83	84.41	80.99
12	71.73	86.40	103.36	77.14	89.78	111.72	88.35	84.27
13	74.05	89.68	108.16	79.85	93.81	117.61	92.29	87.54
14	76.38	92.96	112.96	82.56	97.85	123.50	96.28	90.82
15	78.71	96.24	117.80	85.26	101.94	129.39	100.23	94.10
16	81.04	99.51	122.60	87.97	105.97	135.28	104.17	97.28
17	83.36	102.79	127.40	90.68	110.01	141.17	108.11	100.46
18	85.69	106.07	132.19	93.39	114.05	147.06	112.05	103.65
19	88.07	109.35	136.99	96.14	118.09	152.95	116.04	106.83
20	90.39	112.62	141.79	98.85	122.12	158.84	119.99	110.01
21	92.72	115.90	146.63	101.56	126.21	164.73	123.93	113.19
22	95.05	119.18	151.43	104.26	130.25	170.62	127.87	116.38
23	97.38	122.46	156.23	106.97	134.28	176.51	131.81	119.61
24	99.70	125.73	161.03	109.68	138.32	182.45	135.80	122.79
25	102.03	129.01	165.82	112.39	142.36	188.34	139.75	125.97

PRIORITY MAIL INTERNATIONAL PARCELS COMMERCIAL PLUS PRICES (CONTINUED)

Maximum weight (pounds)	Country price group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
1	48.07	49.97	49.21	41.42	48.02	44.13	41.90	40.95
2	52.58	54.39	52.68	45.27	52.63	47.79	45.46	44.79
3	57.10	58.81	56.19	49.16	57.24	51.44	49.07	48.64
4	61.61	63.22	59.66	53.01	61.85	55.10	52.63	52.49
5	66.12	67.64	63.13	56.86	66.50	58.76	56.19	56.38
6	71.20	70.82	66.12	60.09	70.06	62.46	59.57	59.09
7	76.29	74.01	69.11	63.27	73.63	66.12	62.94	61.80
8	81.37	77.19	72.11	66.45	77.19	69.78	66.36	64.51
9	86.45	80.37	75.10	69.64	80.75	73.44	69.73	67.21
10	91.58	83.55	78.09	72.87	84.36	77.09	73.10	69.92
11	96.57	86.64	81.13	75.34	87.92	81.13	75.05	72.44
12	101.56	89.73	84.12	77.85	91.49	85.17	77.00	74.96
13	106.54	92.82	87.12	80.37	95.05	89.25	78.95	77.47
14	111.53	95.90	90.11	82.89	98.66	93.29	80.89	80.04
15	116.52	98.99	93.10	85.41	102.22	97.33	82.84	82.56
16	121.55	102.08	96.09	87.92	105.50	101.37	84.79	85.07
17	126.54	105.17	99.09	90.44	108.78	105.40	86.74	87.59
18	131.53	108.25	102.08	92.96	112.05	109.49	88.68	90.11
19	136.52	111.34	105.07	95.48	115.33	113.53	90.63	92.63
20	141.50	114.48	108.06	97.99	118.61	117.56	92.53	95.14
21	146.49	117.56	111.06	100.46	121.89	121.60	94.48	97.66
22	151.53	120.65	114.05	102.98	125.16	125.64	96.43	100.18
23	156.51	123.74	117.04	105.50	128.44	129.72	98.37	102.70
24	161.50	126.83	120.03	108.02	131.72	133.76	100.32	105.21
25	166.49	129.91	123.03	110.53	135.00	137.80	102.27	107.73

PRIORITY MAIL INTERNATIONAL PARCELS COMMERCIAL PLUS PRICES (CONTINUED)

Maximum weight (pounds)	Country price group [1]						
	Origin zone 1.1 &1.2 ($)	Origin zone 1.3 ($)	Origin zone 1.4 ($)	Origin zone 1.5 ($)	Origin zone 1.6 ($)	Origin zone 1.7 ($)	Origin zone 1.8 ($)
26	95.81	99.94	105.07	111.91	114.19	118.85	122.22
27	97.85	102.46	107.78	114.81	117.09	121.93	125.59
28	99.89	104.98	110.49	117.71	119.99	125.02	128.96

PRIORITY MAIL INTERNATIONAL PARCELS COMMERCIAL PLUS PRICES (CONTINUED)—Continued

Maximum weight (pounds)	Country price group [1]						
	Origin zone 1.1 &1.2 ($)	Origin zone 1.3 ($)	Origin zone 1.4 ($)	Origin zone 1.5 ($)	Origin zone 1.6 ($)	Origin zone 1.7 ($)	Origin zone 1.8 ($)
29	101.94	107.49	113.19	120.60	122.88	128.11	132.34
30	103.98	110.01	115.90	123.50	125.78	131.20	135.71
31	106.02	112.53	118.61	126.40	128.68	134.24	139.08
32	108.06	115.05	121.32	129.30	131.58	137.32	142.45
33	110.11	117.56	124.02	132.19	134.47	140.41	145.83
34	112.15	120.08	126.78	135.09	137.37	143.50	149.20
35	114.19	122.60	129.49	138.04	140.27	146.59	152.57
36	116.23	125.07	132.19	140.93	143.17	149.67	155.94
37	118.28	127.59	134.90	143.83	146.06	152.76	159.32
38	120.27	130.10	137.61	146.73	148.96	155.85	162.69
39	122.31	132.62	140.32	149.63	151.86	158.94	166.06
40	124.36	135.14	143.02	152.52	154.76	162.02	169.43
41	126.40	137.66	145.73	155.42	157.65	165.11	172.81
42	128.44	140.17	148.44	158.32	160.55	168.20	176.18
43	130.48	142.69	151.15	161.22	163.45	171.24	179.60
44	132.53	145.21	153.85	164.11	166.35	174.33	182.97
45	134.57	147.73	156.56	167.01	169.24	177.41	186.34
46	136.61	150.24	159.27	169.91	172.14	180.50	189.72
47	138.65	152.76	162.02	172.81	175.04	183.59	193.09
48	140.70	155.28	164.73	175.70	177.94	186.68	196.46
49	142.74	157.80	167.44	178.65	180.83	189.76	199.83
50	144.78	160.31	170.15	181.55	183.73	192.85	203.21

PRIORITY MAIL INTERNATIONAL PARCELS COMMERCIAL PLUS PRICES (CONTINUED)

Maximum weight (pounds)	Country price group							
	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
26	104.36	132.29	170.62	115.09	146.44	194.23	143.69	129.15
27	106.69	135.57	175.47	117.80	150.48	200.12	147.63	132.34
28	109.01	138.84	180.26	120.51	154.52	206.01	151.57	135.52
29	111.34	142.17	185.06	123.22	158.56	211.90	155.56	138.70
30	113.67	145.45	189.86	125.92	162.59	217.79	159.51	141.88
31	116.04	148.72	194.66	128.63	166.68	223.68	163.45	145.07
32	118.37	152.00	199.50	131.39	170.72	229.57	167.39	148.25
33	120.70	155.28	204.30	134.09	174.75	235.46	171.33	151.43
34	123.03	158.56	209.10	136.80	178.79	241.35	175.32	154.61
35	125.35	161.83	213.89	139.51	182.83	247.24	179.27	157.80
36	127.68	165.11	218.69	142.22	186.91	253.13	183.21	160.98
37	130.01	168.39	223.49	144.92	190.95	259.02	187.15	164.16
38	132.34	171.67	228.33	147.63	194.99	264.91	191.09	167.34
39	134.66	174.94	233.13	150.34	199.03	270.85	195.08	170.57
40	136.99	178.22	237.93	153.05	203.06	276.74	199.03	173.76
41	139.32	181.50	242.73	155.75	207.15	282.63	202.97	176.94
42	141.69	184.78	247.52	158.46	211.19	288.52	206.91	180.12
43	144.02	188.05	252.32	161.17	215.22	294.41	210.85	183.30
44	146.35	191.33	257.17	163.88	219.26	300.30	214.84	186.49
45	148.68	194.61	261.96	166.58	223.30	306.19	218.79	189.67
46	151.00	197.93	266.76	169.34	227.38	312.08	222.73	192.85
47	153.33	201.21	271.56	172.05	231.42	317.97	226.67	196.03
48	155.66	204.49	276.36	174.75	235.46	323.86	230.61	199.22
49	157.99	207.77	281.15	177.46	239.50	329.75	234.60	202.40
50	160.31	211.04	286.00	180.17	243.53	335.64	238.55	205.58

PRIORITY MAIL INTERNATIONAL PARCELS COMMERCIAL PLUS PRICES (CONTINUED)

Maximum Weight (pounds)	Country price group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
26	171.48	133.00	126.07	113.05	138.27	141.84	104.22	110.30
27	176.46	136.09	129.06	115.57	141.55	145.87	106.16	112.81
28	181.50	139.18	132.05	118.09	144.83	149.96	108.11	115.33

PRIORITY MAIL INTERNATIONAL PARCELS COMMERCIAL PLUS PRICES (CONTINUED)—Continued

Maximum Weight (pounds)	Country price group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
29	186.49	142.26	135.04	120.60	148.15	154.00	110.06	117.85
30	191.47	145.35	138.04	123.12	151.43	158.03	112.01	120.37
31	196.46	148.44	141.03	125.64	154.71	162.07	113.95	122.88
32	201.45	151.53	144.02	128.16	157.99	166.11	115.90	125.40
33	206.44	154.61	147.01	130.67	161.26	170.19	117.85	127.92
34	211.47	157.70	150.01	133.19	164.54	174.23	119.80	130.44
35	216.46	160.84	153.00	135.71	167.82	178.27	121.74	132.95
36	221.45	163.92	155.99	138.23	171.10	182.31	123.69	135.47
37	226.43	167.01	158.98	140.74	174.37	186.34	125.64	137.99
38	231.42	170.10	161.98	143.26	177.65	190.43	127.59	140.55
39	236.41	173.19	164.97	145.78	180.93	194.47	129.53	143.07
40	241.44	176.27	167.96	148.30	184.21	198.50	131.48	145.59
41	246.43	179.46	171.00	150.81	187.48	202.54	133.43	148.11
42	251.42	182.64	173.99	153.33	190.76	206.63	135.38	150.62
43	256.41	185.82	176.99	155.85	194.04	210.66	137.32	153.14
44	261.39	189.05	179.98	158.37	197.32	214.70	139.27	155.66
45	266.38	192.23	182.97	160.88	200.59	218.74	141.22	158.18
46	271.42	195.42	185.96	163.35	203.87	222.78	143.17	160.69
47	276.40	198.60	188.96	165.87	207.20	226.86	145.11	163.21
48	281.39	201.83	191.95	168.39	210.47	230.90	147.06	165.73
49	286.38	205.01	194.94	170.91	213.75	234.94	148.96	168.25
50	291.37	208.19	197.93	173.42	217.03	238.97	150.91	170.76

PRIORITY MAIL INTERNATIONAL PARCELS COMMERCIAL PLUS PRICES (CONTINUED)

Maximum weight (pounds)	Country price group [1]						
	Origin zone 1.1 &1.2 ($)	Origin zone 1.3 ($)	Origin zone 1.4 ($)	Origin zone 1.5 ($)	Origin zone 1.6 ($)	Origin zone 1.7 ($)	Origin zone 1.8 ($)
51	146.82	162.83	172.85	184.25	186.63	195.94	206.58
52	148.87	165.35	175.56	186.96	189.53	199.03	209.95
53	150.91	167.87	178.27	189.67	192.42	202.11	213.32
54	152.95	170.38	180.98	192.38	195.32	205.20	216.70
55	154.99	172.90	183.68	195.08	198.22	208.29	220.07
56	157.04	175.42	186.39	197.79	201.12	211.38	223.44
57	159.08	177.94	189.10	200.50	204.01	214.46	226.81
58	161.12	180.45	191.81	203.21	206.96	217.55	230.19
59	163.16	182.97	194.51	205.91	209.86	220.64	233.56
60	165.21	185.49	197.27	208.62	212.75	223.73	236.93
61	167.25	188.01	199.98	211.33	215.65	226.81	240.35
62	169.29	190.52	202.68	214.08	218.55	229.90	243.72
63	171.33	193.04	205.39	216.79	221.45	232.94	247.10
64	173.38	195.56	208.10	219.50	224.34	236.03	250.47
65	175.42	198.08	210.81	222.21	227.24	239.12	253.84
66	177.46	200.59	213.51	224.91	230.14	242.20	257.21
67							
68							
69							
70							

PRIORITY MAIL INTERNATIONAL PARCELS COMMERCIAL PLUS PRICES (CONTINUED)

Maximum weight (pounds)	Country price group							
	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
51	162.64	214.32	290.80	182.88	247.62	341.53	242.49	208.76
52	164.97	217.60	295.59	185.58	251.66	347.42	246.43	211.95
53	167.34	220.88	300.39	188.29	255.69	353.35	250.42	215.13
54	169.67	224.15	305.19	191.00	259.73	359.24	254.36	218.31
55	172.00	227.43	309.99	193.71	263.82	365.13	258.31	221.54
56	174.33	230.71	314.83	196.41	267.85	371.02	262.25	224.72
57	176.65	233.99	319.63	199.12	271.89	376.91	266.19	227.91
58	178.98	237.26	324.43	201.83	275.93	382.80	270.18	231.09

PRIORITY MAIL INTERNATIONAL PARCELS COMMERCIAL PLUS PRICES (CONTINUED)—Continued

Maximum weight (pounds)	Country price group							
	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
59	181.31	240.54	329.22	204.58	279.97	388.69	274.12	234.27
60	183.64	243.82	334.02	207.29	284.05	394.58	278.07	237.45
61	185.96	247.10	338.87	210.00	288.09	400.47	282.01	240.64
62	188.29	250.42	343.66	212.71	292.13	406.36	285.95	243.82
63	190.62	253.70	348.46	215.41	296.16	412.25	289.94	247.00
64	192.99	256.98	353.26	218.12	300.20	418.14	293.88	250.18
65	195.32	260.25	358.06	220.83	304.29	424.03	297.83	253.37
66	197.65	263.53	362.85	223.54	308.32	429.92	301.77	256.55
67	199.98	266.81	367.70	226.24	312.36	435.86	305.71	259.73
68	202.30	270.09	372.50	228.95	316.40	441.75	309.70	262.91
69	204.63	273.36	377.29	231.66	320.44	447.64	313.64	266.10
70	206.96	276.64	382.09	234.37	324.52	453.53	317.59	269.28

PRIORITY MAIL INTERNATIONAL PARCELS COMMERCIAL PLUS PRICES (CONTINUED)

Maximum weight (pounds)	Country price group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
51	296.35	211.38	200.93	175.94	220.31	243.01	152.86	173.33
52	301.34	214.56	203.92	178.46	223.58	247.10	154.80	175.85
53	306.38	217.79	206.91	180.98	226.86	251.13	156.75	178.36
54	311.36	220.97	209.90	183.49	230.14	255.17	158.70	180.88
55	316.35	224.15	212.90	186.01	233.42	259.21	160.65	183.40
56	321.34	227.34	215.94	188.53	236.69	263.25	162.59	185.92
57	326.33	230.57	218.93	191.05	239.97	267.33	164.54	188.43
58	331.31	233.75	221.92	193.56	243.25	271.37	166.49	190.95
59	336.35	236.93	224.91	196.08	246.53	275.41	168.44	193.47
60	341.34	240.11	227.91	198.60	249.80	279.44	170.38	195.99
61	346.32	243.30	230.90	201.12	253.08	283.48	172.33	198.50
62	351.31	246.53	233.89	203.63	256.36	287.57	174.28	201.02
63	356.30	249.71	236.88	206.15	259.64	291.60	176.23	203.59
64	361.29	252.89	239.88	208.67	262.96	295.64	178.17	206.10
65	366.32	256.07	242.87	211.19	266.24	299.68	180.12	208.62
66	371.31	259.30	245.86	213.70	269.52	303.72	182.07	211.14
67	.....	.....	.....	.....	.....	.....	184.02	.....
68	.....	.....	.....	.....	.....	.....	185.96	.....
69	.....	.....	.....	.....	.....	.....	187.91	.....
70	.....	.....	.....	.....	.....	.....	189.86	.....

Notes:
1. The applicable Origin Zone for pieces destined to Canada is based on the applicable zone from the origin point to the serving International Service Center (ISC). In future releases, distance to and within Canada could be considered for application of the appropriate Origin Zone group.

Pickup On Demand Service

Add $23.00 for each Pickup On Demand stop.

International Service Center (ISC) Zone Chart

The International Service Center (ISC) Zone Chart identifies the appropriate distance code assigned to each origin.

	Annual fee ($)
Zone Chart concerning appropriate International Service Center and partner Induction Facility from every ZIP Code in the nation (per year)	68.00

2320 International Priority Airmail (IPA)

* * *

2320.6 Prices

International Priority Airmail Letters and Postcards

The price to be paid is the applicable per-piece price plus the applicable per-pound price. The per-piece price applies to each mailpiece regardless of weight. The per-pound price applies to the net weight (gross weight of the container minus the tare weight of the container) of the mail for the specific Country Price Group.

a. Presort Mail (Full Service and ISC Drop Shipment)

i. Per Piece

	Price group									
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
Direct Country Containers	0.74	0.24	0.72	0.73	0.72	0.71	0.76	0.67	0.61	0.28
Mixed Country Containers	.....	.....	.....	.....	.....	.....	.....	.....	0.72	0.30

	Price group								
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)
Direct Country Containers	0.26	0.66	0.62	0.24	0.67	0.28	0.28	0.26	0.22
Mixed Country Containers	0.28	0.68	0.66	0.25	0.72	0.30	0.30	0.28	0.24

ii. Per Pound

	Price group									
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
Direct Country Containers (Full Service)	9.40	11.03	11.34	11.82	11.53	12.45	11.82	12.03	12.61	13.93
Direct Country Containers (ISC Drop Shipment)	6.37	6.89	8.42	8.91	8.64	9.32	8.84	8.69	9.45	9.20
Mixed Country Containers (ISC Drop Shipment)	.....	.....	.....	.....	.....	.....	.....	.....	9.90	9.64

	Price group								
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)
Direct Country Containers (Full Service)	12.33	11.98	12.22	12.95	12.07	12.51	13.99	12.39	13.73
Direct Country Containers (ISC Drop Shipment)	9.38	8.78	8.91	10.01	8.73	9.33	9.24	9.42	10.80
Mixed Country Containers (ISC Drop Shipment)	9.78	9.23	9.42	10.50	9.36	9.41	9.69	9.82	11.37

b. Worldwide Nonpresort Mail (Full Service and ISC Drop Shipment)

i. Per Piece

	($)
Worldwide Nonpresorted Containers	0.79

ii. Per Pound

	($)
Worldwide Nonpresorted Containers (Full Service)	16.04
Worldwide Nonpresorted Containers (ISC Drop Shipment)	12.64

International Priority Airmail Large Envelopes (Flats)

The price to be paid is the applicable per-piece price plus the applicable per-pound price. The per-piece price applies to each mailpiece regardless of weight. The per-pound price applies to the net weight (gross weight of the container minus the tare weight of the container) of the mail for the specific Country Price Group.

a. Presort Mail (Full Service and ISC Drop Shipment)

i. Per Piece

	Price group									
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
Direct Country Containers	0.74	0.24	0.72	0.73	0.72	0.71	0.76	0.67	0.61	0.28
Mixed Country Containers	.....	.....	.....	.....	.....	.....	.....	.....	0.72	0.30

	Price group								
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)
Direct Country Containers	0.26	0.66	0.62	0.24	0.67	0.28	0.28	0.26	0.22

	Price group								
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)
Mixed Country Containers	0.28	0.68	0.66	0.25	0.72	0.30	0.30	0.28	0.24

ii. Per Pound

	Price group									
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
Direct Country Containers (Full Service)	8.02	9.42	9.69	10.14	9.89	10.66	10.13	10.28	10.78	11.91
Direct Country Containers (ISC Drop Shipment)	5.47	5.91	7.22	7.65	7.40	7.99	7.57	7.41	8.07	7.87
Mixed Country Containers (ISC Drop Shipment)	.....	.....	.....	.....	.....	.....	.....	.....	8.45	8.27

	Price group								
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)
Direct Country Containers (Full Service)	10.55	10.23	10.45	11.08	12.07	12.51	13.99	12.39	13.73
Direct Country Containers (ISC Drop Shipment)	8.03	7.53	7.63	8.57	8.73	9.33	9.24	9.42	10.80
Mixed Country Containers (ISC Drop Shipment)	8.37	7.90	8.08	8.97	9.36	9.41	9.69	9.82	11.37

b. Worldwide Nonpresort Mail (Full Service and ISC Drop Shipment)

i. Per Piece

	($)
Worldwide Nonpresorted Containers	0.79

ii. Per Pound

	($)
Worldwide Nonpresorted Containers (Full Service)	16.04
Worldwide Nonpresorted Containers (ISC Drop Shipment)	12.64

International Priority Airmail Packages (Small Packets and Rolls)

The price to be paid is the applicable per-piece price plus the applicable per-pound price. The per-piece price applies to each mailpiece regardless of weight. The per-pound price applies to the net weight (gross weight of the container minus the tare weight of the container) of the mail for the specific Country Price Group.

a. Presort Mail (Full Service and ISC Drop Shipment)

i. Per Piece

	Price group									
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
Direct Country Containers	0.74	0.24	0.72	0.73	0.72	0.71	0.77	0.67	0.61	0.28
Mixed Country Containers	.....	.....	.....	.....	.....	.....	.....	.....	0.72	0.30

	Price group								
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)
Direct Country Containers	0.26	0.66	0.62	0.24	0.67	0.28	0.28	0.26	0.22
Mixed Country Containers	0.28	0.68	0.66	0.25	0.72	0.30	0.30	0.28	0.24

ii. Per Pound

	Price group									
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
Direct Country Containers (Full Service)	7.66	9.00	9.26	9.64	9.42	10.18	9.64	9.81	10.30	11.35
Direct Country Containers (ISC Drop Shipment)	5.20	5.65	6.87	7.28	7.06	7.61	7.21	7.09	7.70	7.49
Mixed Country Containers (ISC Drop Shipment)	.....	.....	.....	.....	.....	.....	.....	.....	8.09	7.85

	Price group								
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)
Direct Country Containers (Full Service)	10.05	9.77	9.97	10.56	12.07	12.51	13.99	12.39	13.73
Direct Country Containers (ISC Drop Shipment)	7.66	7.18	7.27	8.17	8.73	9.33	9.24	9.42	10.80
Mixed Country Containers (ISC Drop Shipment)	8.00	7.51	7.70	8.55	9.36	9.41	9.69	9.82	11.37

b. Worldwide Nonpresort Mail (Full Service and ISC Drop Shipment)

i. Per Piece

	($)
Worldwide Nonpresorted Containers	0.79

ii. Per Pound

	($)
Worldwide Nonpresorted Containers (Full Service)	16.04
Worldwide Nonpresorted Containers (ISC Drop Shipment)	12.64

International Priority Airmail M-Bag

The price to be paid is the applicable per-pound price. The per-pound price applies to the total weight of the sack (M-bag) for the specific Country Price Group.

a. International Priority Airmail M-Bag (Full Service)

Maximum weight (pounds)	Price group									
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
11	75.13	84.92	99.95	99.95	99.95	125.18	99.95	99.95	119.24	109.34
For each additional pound or fraction thereof	6.83	7.72	9.05	9.05	9.05	11.38	9.05	9.05	10.84	9.94

Maximum weight (pounds)	Price group								
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)
11	121.77	103.18	99.95	121.33	99.95	112.75	109.34	121.77	119.90
For each additional pound or fraction thereof	11.07	9.38	9.05	11.03	9.05	10.25	9.94	11.07	10.90

b. International Priority Airmail M-Bag (ISC Drop Shipment)

Maximum weight (pounds)	Price group									
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
5	29.46	36.44	45.75	45.75	45.75	66.66	45.75	45.75	61.02	57.80
6	29.98	37.47	47.25	47.25	47.25	69.15	47.25	47.25	63.25	58.92
7	30.50	38.50	48.75	48.75	48.75	71.64	48.75	48.75	65.48	60.04
8	31.02	39.53	50.25	50.25	50.25	74.13	50.25	50.25	67.71	61.16
9	31.54	40.56	51.75	51.75	51.75	76.62	51.75	51.75	69.94	62.28
10	32.06	41.59	53.25	53.25	53.25	79.11	53.25	53.25	72.17	63.40
11	32.58	42.62	54.75	54.75	54.75	81.60	54.75	54.75	74.40	64.52
For each additional pound or fraction thereof	2.97	3.87	4.99	4.99	4.99	7.41	4.99	4.99	6.76	5.86

Maximum weight (pounds)	Price group								
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)
5	66.26	49.54	45.75	66.56	45.75	57.92	57.80	66.26	64.15
6	68.03	51.01	47.25	68.18	47.25	59.55	58.92	68.03	65.98
7	69.80	52.48	48.75	69.80	48.75	61.18	60.04	69.80	67.81
8	71.57	53.95	50.25	71.42	50.25	62.81	61.16	71.57	69.64
9	73.34	55.42	51.75	73.04	51.75	64.44	62.28	73.34	71.47
10	75.11	56.89	53.25	74.66	53.25	66.07	63.40	75.11	73.30
11	76.88	58.36	54.75	76.28	54.75	67.70	64.52	76.88	75.13
For each additional pound or fraction thereof	6.98	5.30	4.99	6.94	4.99	6.16	5.86	6.98	6.83

2325 International Surface Air Lift (ISAL)

* * *

2325.6 Prices

International Surface Air Lift Letters and Postcards

The price to be paid is the applicable per-piece price plus the applicable per-pound price. The per-piece price applies to each mailpiece regardless of weight. The per-pound price applies to the net weight (gross weight of the container minus the tare weight of the container) of the mail for the specific price group.

a. Presort Mail (Full Service and ISC Drop Shipment)

i. Per Piece

	Price group									
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
Direct Country Containers	0.68	0.22	0.65	0.68	0.68	0.65	0.69	0.62	0.55	0.26
Mixed Country Containers	.....	.....	.....	.....	.....	.....	.....	.....	0.67	0.28

	Price group								
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)
Direct Country Containers	0.24	0.56	0.61	0.22	0.62	0.26	0.26	0.24	0.20
Mixed Country Containers	0.25	0.58	0.65	0.24	0.67	0.28	0.28	0.25	0.22

ii. Per Pound

	Price group									
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
Direct Country Containers (Full Service)	9.15	10.60	10.27	10.97	10.77	11.63	10.97	10.78	11.65	13.13
Direct Country Containers (ISC Drop Shipment)	6.18	6.65	7.66	8.25	8.06	8.70	8.17	7.79	8.71	8.67
Mixed Country Containers (ISC Drop Shipment)	.....	.....	.....	.....	.....	.....	.....	.....	8.84	9.10

	Price group								
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)
Direct Country Containers (Full Service)	11.12	11.00	10.52	11.97	10.85	11.64	12.97	11.17	12.73
Direct Country Containers (ISC Drop Shipment)	8.47	8.05	7.60	9.28	7.82	8.66	8.55	8.51	10.03
Mixed Country Containers (ISC Drop Shipment)	8.77	8.47	8.44	9.52	8.69	8.73	8.99	8.81	10.21

b. Worldwide Nonpresort Mail (Full Service and ISC Drop Shipment)

i. Per Piece

	($)
Worldwide Nonpresorted Containers	0.73

ii. Per Pound

	($)
Worldwide Nonpresorted Containers (Full Service)	14.77
Worldwide Nonpresorted Containers (ISC Drop Shipment)	11.64

International Surface Air Lift Large Envelopes (Flats)

The price to be paid is the applicable per-piece price plus the applicable per-pound price. The per-piece price applies to each mailpiece regardless of weight. The per-pound price applies to the net weight (gross weight of the container minus the tare weight of the container) of the mail for the specific price group.

a. Presort Mail (Full Service and ISC Drop Shipment)

i. Per Piece

	Price group									
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
Direct Country Containers	0.68	0.23	0.65	0.68	0.68	0.65	0.69	0.62	0.57	0.26
Mixed Country Containers	.....	.....	.....	.....	.....	.....	.....	.....	0.67	0.28

	Price group								
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)
Direct Country Containers	0.24	0.58	0.61	0.22	0.62	0.26	0.26	0.24	0.20
Mixed Country Containers	0.25	0.59	0.65	0.24	0.67	0.28	0.28	0.25	0.22

ii. Per Pound

	Price group									
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
Direct Country Containers (Full Service)	7.80	9.11	8.79	9.39	9.21	9.94	9.39	9.22	9.98	11.24
Direct Country Containers (ISC Drop Shipment)	5.30	5.70	6.53	7.07	6.90	7.45	7.01	6.67	7.43	7.43
Mixed Country Containers (ISC Drop Shipment)	.....	.....	.....	.....	.....	.....	.....	.....	7.57	7.80

	Price group								
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)
Direct Country Containers (Full Service)	9.52	9.38	9.00	10.23	10.85	11.64	12.97	11.17	12.73
Direct Country Containers (ISC Drop Shipment)	7.26	6.89	6.51	7.94	7.82	8.66	8.55	8.51	10.03
Mixed Country Containers (ISC Drop Shipment)	7.50	7.24	7.21	8.13	8.69	8.73	8.99	8.81	10.21

b. Worldwide Nonpresort Mail (Full Service and ISC Drop Shipment)

i. Per Piece

	($)
Worldwide Nonpresorted Containers	0.73

ii. Per Pound

	($)
Worldwide Nonpresorted Containers (Full Service)	14.77
Worldwide Nonpresorted Containers (ISC Drop Shipment)	11.64

International Surface Air Lift Packages (Small Packets and Rolls)

The price to be paid is the applicable per-piece price plus the applicable per-pound price. The per-piece price applies to each mailpiece regardless of weight. The per-pound price applies to the net weight (gross weight of the container minus the tare weight of the container) of the mail for the specific price group.

a. Presort Mail (Full Service and ISC Drop Shipment)

i. Per Piece

	Price group									
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
Direct Country Containers	0.68	0.22	0.65	0.68	0.68	0.65	0.69	0.62	0.57	0.26
Mixed Country Containers	.....	.....	.....	.....	.....	.....	.....	.....	0.67	0.28

	Price group								
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)
Direct Country Containers	0.24	0.58	0.61	0.22	0.62	0.26	0.26	0.24	0.20
Mixed Country Containers	0.25	0.59	0.65	0.24	0.67	0.28	0.28	0.25	0.22

ii. Per Pound

	Price group									
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
Direct Country Containers (Full Service)	7.45	8.65	8.39	8.95	8.78	9.48	8.95	8.79	9.48	10.73
Direct Country Containers (ISC Drop Shipment)	5.04	5.43	6.21	6.72	6.58	7.10	6.67	6.36	7.10	7.08
Mixed Country Containers (ISC Drop Shipment)	.....	.....	.....	.....	.....	.....	.....	.....	7.22	7.44

	Price group								
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)
Direct Country Containers (Full Service)	9.09	8.99	8.58	9.78	10.85	11.64	12.97	11.17	12.73
Direct Country Containers (ISC Drop Shipment)	6.94	6.56	6.21	7.61	7.82	8.66	8.55	8.51	10.03
Mixed Country Containers (ISC Drop Shipment)	7.18	6.91	6.87	7.78	8.69	8.73	8.99	8.81	10.21

b. Worldwide Nonpresort Mail (Full Service and ISC Drop Shipment)

i. Per Piece

	($)
Worldwide Nonpresorted Containers	0.73

ii. Per Pound

	($)
Worldwide Nonpresorted Containers (Full Service)	14.77
Worldwide Nonpresorted Containers (ISC Drop Shipment)	11.64

International Surface Air Lift M-Bags

The price to be paid is applicable per-pound price. The per-pound price applies to the total weight of the sack (M-bag) for the specific price group.

a. International Surface Air Lift M-Bag (Full Service)

Maximum weight (pounds)	Price group									
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
11	26.07	27.94	32.67	32.67	32.67	45.54	32.67	33.22	42.57	38.28
For each additional pound or fraction thereof	2.37	2.54	2.97	2.97	2.97	4.14	2.97	3.02	3.87	3.48

Maximum weight (pounds)	Price group								
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)
11	42.57	34.32	33.22	44.88	33.22	38.28	38.28	42.57	53.24
For each additional pound or fraction thereof	3.87	3.12	3.02	4.08	3.02	3.48	3.48	3.87	4.84

b. International Surface Air Lift M-Bag (ISC Drop Shipment)

Maximum weight (pounds)	Price group									
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
5	24.09	22.15	17.29	17.29	17.29	24.50	17.29	17.58	23.72	22.34
6	24.26	22.90	19.27	19.27	19.27	27.79	19.27	19.62	26.33	24.42
7	24.43	23.65	21.25	21.25	21.25	31.08	21.25	21.66	28.94	26.50
8	24.60	24.40	23.23	23.23	23.23	34.37	23.23	23.70	31.55	28.58
9	24.77	25.15	25.21	25.21	25.21	37.66	25.21	25.74	34.16	30.66
10	24.94	25.90	27.19	27.19	27.19	40.95	27.19	27.78	36.77	32.74
11	25.11	26.65	29.17	29.17	29.17	44.24	29.17	29.82	39.38	34.82
For each additional pound or fraction thereof	2.28	2.42	2.65	2.65	2.65	4.03	2.65	2.70	3.59	3.18

Maximum weight (pounds)	Price group								
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)
5	18.80	18.51	17.58	19.69	17.58	20.20	22.34	18.80	25.33
6	22.17	20.57	19.62	23.31	19.62	22.65	24.42	22.17	29.44
7	25.54	22.63	21.66	26.93	21.66	25.10	26.50	25.54	33.55
8	28.91	24.69	23.70	30.55	23.70	27.55	28.58	28.91	37.66
9	32.28	26.75	25.74	34.17	25.74	30.00	30.66	32.28	41.77
10	35.65	28.81	27.78	37.79	27.78	32.45	32.74	35.65	45.88
11	39.02	30.87	29.82	41.41	29.82	34.90	34.82	39.02	49.99
For each additional pound or fraction thereof	3.56	2.81	2.70	3.76	2.70	3.18	3.18	3.56	4.54

2330 International Direct Sacks—Airmail M-Bags

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2330.6 Prices

Outbound International Direct Sacks—Airmail M-Bags

The price is based on the applicable per-pound price. The per-pound price applies to the total weight of the sack (M-Bag) for the specific price group.

Maximum weight (pounds)	Price group								
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
11	49.50	46.75	88.00	70.95	60.50	85.25	73.70	73.70	72.05
For each additional pound or fraction thereof	4.50	4.25	8.00	6.45	5.50	7.75	6.70	6.70	6.55

Notes

1. Same as Price Groups 1–9 for Single-Piece First-Class Mail International (SPFCMI).

Inbound International Direct Sacks—M-Bags

Payment is made in accordance with Part III of the Universal Postal Convention and associated UPU Letter Post Regulations. This information is available in the Letter Post Manual at *www.upu.int.*

2335 Outbound Single-Piece First-Class Package International Service

* * *

2335.6 Prices

Outbound Single-Piece First-Class Package International Service Retail Prices

Maximum weight (ounces)	Country price group								
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
1	10.50	12.25	14.25	14.25	14.25	14.50	13.75	13.50	14.50
2	10.50	12.25	14.25	14.25	14.25	14.50	13.75	13.50	14.50
3	10.50	12.25	14.25	14.25	14.25	14.50	13.75	13.50	14.50
4	10.50	12.25	14.25	14.25	14.25	14.50	13.75	13.50	14.50
5	10.50	12.25	14.25	14.25	14.25	14.50	13.75	13.50	14.50
6	10.50	12.25	14.25	14.25	14.25	14.50	13.75	13.50	14.50
7	10.50	12.25	14.25	14.25	14.25	14.50	13.75	13.50	14.50
8	10.50	12.25	14.25	14.25	14.25	14.50	13.75	13.50	14.50
12	17.25	21.50	23.50	24.00	24.00	24.50	23.25	22.75	24.50
16	17.25	21.50	23.50	24.00	24.00	24.50	23.25	22.75	24.50
20	17.25	21.50	23.50	24.00	24.00	24.50	23.25	22.75	24.50
24	17.25	21.50	23.50	24.00	24.00	24.50	23.25	22.75	24.50
28	17.25	21.50	23.50	24.00	24.00	24.50	23.25	22.75	24.50
32	17.25	21.50	23.50	24.00	24.00	24.50	23.25	22.75	24.50

Maximum weight (ounces)	Country price group								
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
36	26.25	33.00	35.00	36.75	37.50	38.75	37.00	34.75	38.50
40	26.25	33.00	35.00	36.75	37.50	38.75	37.00	34.75	38.50
44	26.25	33.00	35.00	36.75	37.50	38.75	37.00	34.75	38.50
48	26.25	33.00	35.00	36.75	37.50	38.75	37.00	34.75	38.50
52	39.00	47.50	52.75	59.50	61.00	63.00	59.50	55.25	62.50
56	39.00	47.50	52.75	59.50	61.00	63.00	59.50	55.25	62.50
60	39.00	47.50	52.75	59.50	61.00	63.00	59.50	55.25	62.50
64	39.00	47.50	52.75	59.50	61.00	63.00	59.50	55.25	62.50

Outbound Single-Piece First-Class Package International Service Commercial Base Prices

Maximum weight (ounces)	Country price group								
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
1	9.98	11.64	13.54	13.54	13.54	13.78	13.06	12.83	13.78
2	9.98	11.64	13.54	13.54	13.54	13.78	13.06	12.83	13.78
3	9.98	11.64	13.54	13.54	13.54	13.78	13.06	12.83	13.78
4	9.98	11.64	13.54	13.54	13.54	13.78	13.06	12.83	13.78
5	9.98	11.64	13.54	13.54	13.54	13.78	13.06	12.83	13.78
6	9.98	11.64	13.54	13.54	13.54	13.78	13.06	12.83	13.78
7	9.98	11.64	13.54	13.54	13.54	13.78	13.06	12.83	13.78
8	9.98	11.64	13.54	13.54	13.54	13.78	13.06	12.83	13.78
12	16.39	20.43	22.33	22.80	22.80	23.28	22.09	21.61	23.28
16	16.39	20.43	22.33	22.80	22.80	23.28	22.09	21.61	23.28
20	16.39	20.43	22.33	22.80	22.80	23.28	22.09	21.61	23.28
24	16.39	20.43	22.33	22.80	22.80	23.28	22.09	21.61	23.28
28	16.39	20.43	22.33	22.80	22.80	23.28	22.09	21.61	23.28
32	16.39	20.43	22.33	22.80	22.80	23.28	22.09	21.61	23.28
36	24.94	31.35	33.25	34.91	35.63	36.81	35.15	33.01	36.58
40	24.94	31.35	33.25	34.91	35.63	36.81	35.15	33.01	36.58
44	24.94	31.35	33.25	34.91	35.63	36.81	35.15	33.01	36.58
48	24.94	31.35	33.25	34.91	35.63	36.81	35.15	33.01	36.58
52	37.05	45.13	50.11	56.53	57.95	59.85	56.53	52.49	59.38
56	37.05	45.13	50.11	56.53	57.95	59.85	56.53	52.49	59.38
60	37.05	45.13	50.11	56.53	57.95	59.85	56.53	52.49	59.38
64	37.05	45.13	50.11	56.53	57.95	59.85	56.53	52.49	59.38

Outbound Single-Piece First-Class Package International Service Commercial Plus Prices

Maximum weight (ounces)	Country price group								
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
1	9.98	11.64	13.54	13.54	13.54	13.78	13.06	12.83	13.78
2	9.98	11.64	13.54	13.54	13.54	13.78	13.06	12.83	13.78
3	9.98	11.64	13.54	13.54	13.54	13.78	13.06	12.83	13.78
4	9.98	11.64	13.54	13.54	13.54	13.78	13.06	12.83	13.78
5	9.98	11.64	13.54	13.54	13.54	13.78	13.06	12.83	13.78
6	9.98	11.64	13.54	13.54	13.54	13.78	13.06	12.83	13.78
7	9.98	11.64	13.54	13.54	13.54	13.78	13.06	12.83	13.78
8	9.98	11.64	13.54	13.54	13.54	13.78	13.06	12.83	13.78
12	16.39	20.43	22.33	22.80	22.80	23.28	22.09	21.61	23.28
16	16.39	20.43	22.33	22.80	22.80	23.28	22.09	21.61	23.28
20	16.39	20.43	22.33	22.80	22.80	23.28	22.09	21.61	23.28
24	16.39	20.43	22.33	22.80	22.80	23.28	22.09	21.61	23.28
28	16.39	20.43	22.33	22.80	22.80	23.28	22.09	21.61	23.28
32	16.39	20.43	22.33	22.80	22.80	23.28	22.09	21.61	23.28
36	24.94	31.35	33.25	34.91	35.63	36.81	35.15	33.01	36.58
40	24.94	31.35	33.25	34.91	35.63	36.81	35.15	33.01	36.58
44	24.94	31.35	33.25	34.91	35.63	36.81	35.15	33.01	36.58
48	24.94	31.35	33.25	34.91	35.63	36.81	35.15	33.01	36.58
52	37.05	45.13	50.11	56.53	57.95	59.85	56.53	52.49	59.38
56	37.05	45.13	50.11	56.53	57.95	59.85	56.53	52.49	59.38

Maximum weight (ounces)	Country price group								
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
60	37.05	45.13	50.11	56.53	57.95	59.85	56.53	52.49	59.38
64	37.05	45.13	50.11	56.53	57.95	59.85	56.53	52.49	59.38

Fee for Return of Undeliverable as Addressed Outbound U.S. Origin Mail Posted Through a Foreign Postal Administration or Operator

A fee is charged for the return of an undeliverable-as-addressed Outbound Single-Piece First-Class Mail International item bearing a U.S. return address which was originally posted to an international addressee through a foreign postal administration, consolidator, or operator. The fee for each returned item is equal to the First-Class Mail International postage which would have been charged if the item had been posted through the Postal Service as First-Class Mail International. The fee is charged to the return addressee.

Pickup On Demand Service

Add $23.00 for each Pickup On Demand stop.

2600 Special Services

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2605 Address Enhancement Services

* * *

2605.2 Prices

	($)
AEC:	
Per record processed	0.26
Minimum charge per list	26.00
AMS API Address Matching System Application Program Interface (per year, per platform): [1]	
Developer's Kit, one platform	5,600.00
Each Additional, per platform	1,950.00
Resell License, one platform	24,650.00
Each Additional, per platform	12,400.00
Additional Database License	
Number of Additional Licenses:	
1–100	2,950.00
101–200	6,000.00
201–300	9,000.00
301–400	12,000.00
401–500	15,150.00
501–600	18,200.00
601–700	21,050.00
701–800	24,250.00
801–900	27,500.00
901–1,000	30,250.00
1,001–10,000	39,150.00
10,001–20,000	48,150.00
20,001–30,000	57,650.00
30,001–40,000	66,650.00
RDI API Developer's Kit: [1]	
Each, per platform	450.00
Resell License, one platform	1,700.00
Each Additional, per platform	960.00

Notes

1. Above API License Fees prorated during the first year based on the date of the license agreement.

* * *

2615 International Ancillary Services

2615.1 International Certificate of Mailing

* * *

2615.1.2 Prices

Individual Pieces Prices

	($)
Original certificate of mailing for listed pieces of ordinary Outbound Single-Piece First-Class Package International Service	1.45
Three or more pieces individually listed in a firm mailing book or an approved customer provided manifest (per piece)	0.50
Each additional copy of original certificate of mailing or firm mailing bills (each copy)	1.45

Multiple Pieces Prices

	($)
Up to 1,000 identical-weight pieces (one certificate for total number)	8.55
Each additional 1,000 identical-weight pieces or fraction thereof	1.07
Duplicate copy	1.45

2615.2 Outbound Competitive International Registered Mail

* * *

2615.2.2 Prices

	($)
Per Piece	16.00

2615.3 Outbound International Return Receipt

* * *

2615.3.2 Prices

Outbound International Return Receipt

	($)
Per Piece	4.10

Inbound International Return Receipt

No additional payment.

2615.5 Outbound International Insurance

* * *

2615.5.3 Prices

Outbound International Insurance

a. Priority Mail International Insurance and Priority Mail Express International Merchandise Insurance

Indemnity limit not over ($)	Price ($)
200 [1]	0.00
300	6.50
400	8.05
500	9.60
600	11.15
700	12.70
800	14.25
900	15.80
Over 900	15.80 plus 1.55 for each 100.00 or fraction thereof over 900.00. Maximum indemnity varies by country.

Notes

[1] Insurance coverage is provided, for no additional charge, up to $200.00 for merchandise, and up to $100.00 for document reconstruction.

b. Global Express Guaranteed Insurance

($)		($)	($)
Amount of coverage:			
0.01	to	100.00	0.00
100.01	to	200.00	1.05
200.01	to	300.00	2.10
300.01	to	400.00	3.15
400.01	to	500.00	4.20

For document reconstruction insurance or non-document insurance coverage above 500.00, add 1.05 per 100.00 or fraction thereof, up to a maximum of 2,499.00 per shipment. Maximum indemnity varies by country.

Up to	2,499.00	25.20

2615.6 Custom Clearance and Delivery Fee

* * *

2615.6.2 Prices

	($)
Per Dutiable Item	6.40

2620 International Money Transfer Service—Outbound

* * *

2620.3 Prices

International Money Order

	($)
Per International Money Order	9.50

	($)
Inquiry Fee	7.25

Vendor Assisted Electronic Money Transfer

	Transfer Amount		Per transfer ($)
	Minimum amount ($)	Maximum amount ($)	
Electronic Money Transfer	0.01	750.00	13.95
	750.01	1,500.00	19.95
Refund	0.01	1,500.00	29.95
Change of Recipient	0.01	1,500.00	15.50

Electronic Money Transfer

[Reserved]

* * *

2630 Premium Forwarding Service

2630.1 Description

a. Premium Forwarding Service Residential: provides residential delivery customers, and certain Post Office Box customers, the option to receive substantially all mail addressed to a primary address instead at a temporary address by means of a weekly Priority Mail shipment. Parcels that are too large for the weekly shipment, mail pieces that require a scan upon delivery or arrive postage due at the office serving the customer's primary address, and certain Priority Mail pieces may be rerouted as specified in the Domestic Mail Manual. Rerouted Priority Mail Express, First-Class Mail, and Priority Mail pieces incur no additional reshipping charges. Rerouted USPS Marketing Mail and Package Service pieces may be rerouted postage due. Mail sent to a primary address for which an addressee has activated Premium Forwarding Service Residential is not treated as undeliverable-as-addressed. Premium Forwarding Service Residential is available for a period of at least two weeks and not more than twelve months, may not be used simultaneously with temporary or permanent forwarding orders, and is not available to customers whose primary address consists of a size three, four, or five Post Office Box, subject to exceptions allowed by the Postal Service, or a centralized delivery point. *Customers must pay the appropriate enrollment fee at the time the service is requested.*

b. Premium Forwarding Service Commercial: provides commercial customers the option to have mail addressed to business Post Office Boxes or business street addresses within the same servicing postal facility reshipped as Priority Mail Express or Priority Mail to a new address, for a period of time specified by the customer. Mail pieces that are accountable, require a scan, or arrive postage due at the customer's primary address will be rerouted separately as specified in the Domestic Mail Manual. Containers are used based on volumes and are charged the appropriate Priority Mail Express or Priority Mail postage. Flat rate tray boxes may be used, when available. *Customers must pay the Online Enrollment fee annually.*

c. Premium Forwarding Service Local: provides certain Post Office Box customers (excludes No-Fee Group E box customers) the option to have mail for delivery to their Post Office Box, reshipped to their deliverable physical street address, when both addresses are serviced by the same postal facility, according to a frequency set by the customer. The Per-Container Reshipment fee will be charged for each Local container received by the customer. Customers must pay the Online Enrollment fee annually. Some packages will be reshipped separately from the main Local container to the customer's deliverable physical street address as specified in the Domestic Mail Manual.

2630.2 Prices

	($)
Online Enrollment (Commercial, ~~and~~ Residential, and Local)	19.35
Retail Counter Enrollment (Residential Only)	21.10
Weekly Reshipment (Residential Only)	21.10
Per-Container Reshipment (Local Only)	21.10
Priority Mail Half Tray Box (Commercial Only)	23.48
Priority Mail Full Tray Box (Commercial Only)	42.84
Priority Mail Express Half Tray Box (Commercial Only)	55.65
Priority Mail Express Full Tray Box (Commercial Only)	105.26

2645 Competitive Ancillary Services

2645.1 Adult Signature

* * *

2645.1.2 Prices

	($)
Adult Signature Required	6.40
Adult Signature Restricted Delivery	6.66

2645.2 Package Intercept Service 2645.2.2 Prices

* * *

	($)
Package Intercept Service	14.10

[FR Doc. 2018–22410 Filed 10–16–18; 8:45 am]

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Part III

Environmental Protection Agency

40 CFR Parts 700, 720, 723 et al.
Fees for the Administration of the Toxic Substances Control Act; Rules

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 700, 720, 723, 725, 790, and 791

[EPA–HQ–OPPT–2016–0401; FRL–9984–41]

RIN 2070–AK27

Fees for the Administration of the Toxic Substances Control Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: As permissible under the Toxic Substances Control Act (TSCA or the Act), EPA is establishing fees applicable to any person required to submit information to EPA; or a notice, including an exemption or other information, to be reviewed by EPA; or who manufactures (including imports) a chemical substance that is the subject of a risk evaluation. This final rulemaking describes the final TSCA fees and fee categories for fiscal years 2019, 2020, and 2021, and explains the methodology by which the final TSCA fees were determined. It identifies some factors and considerations for determining fees for subsequent fiscal years; and includes amendments to existing fee regulations governing the review of premanufacture notices, exemption applications and notices, and significant new use notices. As required in TSCA, EPA is also establishing standards for determining which persons qualify as ''small business concerns'' and thus would be subject to lower fee payments. Requiring manufacturers and processors of certain chemical substances to pay a fee for specific fee-triggering events under TSCA, will defray part of the EPA cost of administering TSCA.

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

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2016–0401, is available at *http://www.regulations.gov* or at the Office of Pollution Prevention and Toxics Docket (OPPT 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 OPPT Docket is (202) 566–0280. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Mark Hartman, Immediate Office, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–3810; email address: *hartman.mark@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. Executive Summary

A. Does this action apply to me?

You may be affected by this action if you manufacture (including import), distribute in commerce, or process a chemical substance (or any combination of such activities) and are required to submit information to EPA under TSCA sections 4 or 5, or if you manufacture a chemical substance that is the subject of a risk evaluation under TSCA section 6(b). The following list of North American Industry 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 companies found in major NAICS groups:

- Chemical Manufacturers (NAICS code 325),
- Petroleum and Coal Products (NAICS code 324), and
- Chemical, Petroleum and Merchant Wholesalers (NAICS code 424).

If you have any questions regarding the applicability of this action, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What is the Agency's authority for taking this action?

The Toxic Substances Control Act (TSCA), 15 U.S.C. 2601 *et seq.,* as amended by the Frank R. Lautenberg Chemical Safety for the 21st Century Act of 2016 (Pub. L. 114–182) (Ref. 1), provides EPA with authority to establish fees to defray a portion of the costs associated with administering TSCA sections 4, 5, and 6, as amended, as well as the costs of ''collecting, processing, reviewing, and providing access to and protecting information about chemical substances from disclosure as appropriate under TSCA section 14.'' EPA is finalizing this rule under TSCA section 26(b), 15 U.S.C. 2625(b).

C. What action is the Agency taking?

Pursuant to TSCA section 26(b), EPA is finalizing a rule to establish and collect fees from manufacturers (including importers) and, in some cases, processors, to defray some of the Agency's costs related to activities under TSCA sections 4, 5, and 6, and collecting, processing, reviewing, and providing access to and protecting information about chemical substances from disclosure as appropriate under TSCA section 14. EPA is also finalizing standards for determining which persons qualify as small business concerns and thus would be subject to lower fee amounts. TSCA section 26(b)(4) requires that EPA, in setting fees, establish lower fees for small businesses.

D. Why is the Agency taking this action?

The 2016 amendments to TSCA authorize EPA to establish fees to defray a portion of the costs of administering TSCA sections 4, 5, and 6 and collecting, processing, reviewing, providing access to, and protecting information about chemical substances from disclosure as appropriate under TSCA section 14. Pursuant to the final rule, the Agency will collect payment from manufacturers who: Are required to submit information under TSCA section 4; are required to submit a notice, exemption application, or other information under TSCA section 5; or manufacture a chemical substance that is the subject of a risk evaluation under TSCA section 6(b). The Agency will also collect payment from processors in limited scenarios, *i.e.,* where a processor submits a Significant New Use Notice (SNUN) under TSCA section 5; or where a fee-triggering TSCA section 4 activity is tied to a SNUN submission by a processor. These fees are intended to achieve the goals articulated by Congress by providing a sustainable source of funds for EPA to fulfill its legal obligations to conduct activities such as designating applicable substances as High- and Low-Priority, conducting risk evaluations to determine whether a chemical substance presents an unreasonable risk of injury to health or the environment, requiring testing of chemical substances and mixtures, and evaluating and reviewing new chemical submissions, as required under TSCA sections 4, 5 and 6, as well as and collecting, processing, reviewing, and providing access to and protecting information about chemical substances from disclosure as appropriate under TSCA section 14.

E. What are the estimated incremental impacts of this action?

EPA has evaluated the potential incremental economic impacts of this final rule. The Agency analyzed a three-year period, since the statute requires EPA to reevaluate and adjust, as necessary, the fees every three years. The Economic Analysis (Ref. 2), which is available in the docket, is briefly summarized here and discussed in more detail in Unit IV.

The annualized fees collected from industry are approximately $20 million, excluding fees collected for manufacturer-requested risk evaluations. Total annualized fee collection was calculated by multiplying the estimated number of fee-triggering events anticipated each year by the corresponding fees. EPA estimates that section 4 fees account for less than one percent of the total fee collection, section 5 fees for approximately 43 percent, and section 6 fees for approximately 56 percent.

Total annual fee collection for manufacturer-requested risk evaluations is estimated to be $1.3 million for chemicals included in the 2014 TSCA Work Plan (TSCA Work Plan) (based on two requests over the three-year period) and approximately $3.9 million for chemicals not included in the TSCA Work Plan (based on three requests over the three-year period).

EPA estimates that 18.6 percent of section 5 submissions will be from small businesses that are eligible to pay the section 5 small business fee because they meet the definition of ''small business concern.'' Total annualized fee collection from small businesses submitting under section 5 is estimated to be $339,000 (Ref. 2). For sections 4 and 6, reduced fees paid by eligible small businesses and fees paid by non-small businesses may differ over the three-year period that was analyzed, since the fee paid by each entity is dependent on the number of entities identified per fee-triggering event. EPA estimates that average annual fee collection from small businesses impacted by section 4 and section 6 would be approximately $7,000 and $926,000, respectively. For each of the three years covered by this rule, EPA estimates that total fee revenue collected from small businesses will account for about 6 percent of the approximately $20 million total fee collection, for an annual average total of approximately $1.3 million. For fees paid through consortia for activities under section 4 and 6, since consortia will be required to pay the full fee amount, general industry firms that are not eligible for reduced fees will pay more to ensure the fee is covered. Therefore, although more firms are eligible for small business discounts under the SBA definition used in the final rule, the total annual fee revenue estimate remains relatively stable at approximately $20 million.

Total social cost represents the total burden a regulation will impose on the economy. It can be defined as the sum of all opportunity costs incurred as a result of the regulation. The opportunity cost incurred by industry to carry out these activities is the foregone value of the time (burden) and investments required to comply with rule. Total social cost for this final rule does not include the fees collected from industry by EPA, as these fees are considered transfer payments. Rather, total social cost includes the opportunity costs incurred by industry, such as the cost to read and familiarize themselves with the rule; determine their eligibility for paying reduced fees; register for CDX; form, manage and notify EPA of participation in consortia; notify EPA and certify whether they will be subject to the action or not; and arrange to submit fee payments via *Pay.gov.* Total social costs also include the additional costs to EPA to administer fee assessment and collection for TSCA sections 4, 5, and 6, and collecting, processing, reviewing, and providing access to and protecting information about chemical substances from disclosure as appropriate under TSCA section 14. The total annualized opportunity cost to industry is approximately $231,000 and the additional annualized Agency cost is approximately $7,000, yielding a total annualized social cost of approximately $238,000.

II. Background

A. Statutory Requirements for TSCA Fees

The proposed rule provides a robust overview of the history of fees under TSCA and the 2016 amendments to TSCA (83 FR 8212, February 26, 2018) (FRL–9974–31). TSCA authorizes EPA to establish, by rule, fees for activities under TSCA sections 4, 5 and/or 6. In so doing, the Agency must set lower fees for small business concerns and establish the fees at a level such that they'll offset 25% of the Agency's costs to carry out a broader set of activities under sections 4, 5, and 6 and of collecting, processing, reviewing, and providing access to and protecting from disclosure as appropriate under section 14 information on chemical substances under TSCA. In addition, in the case of a manufacturer-requested risk evaluation, the Agency is authorized to establish fees sufficient to defray 50% of the costs associated with conducting a manufacturer-requested risk evaluation on a chemical included in the *TSCA Work Plan for Chemical Assessments: 2014 Update,* and 100% of the costs of conducting a manufacturer-requested risk evaluation for all other chemicals. TSCA now requires fee revenue to be deposited into a new dedicated TSCA fund intended to ensure that resources are made available to the Agency to defray some of the costs that EPA incurs in carrying out activities under sections 4, 5, and 6, and of collecting, processing, reviewing, and providing access to and protecting from disclosure as appropriate under section 14 information on chemical substances under TSCA. EPA is also required in TSCA section 26(b)(4)(F) to review and adjust the fees established in this rule every three years, and to consult with parties potentially subject to fees when the fees are reviewed and updated to reflect changes in program costs.

B. Overview of Final Rule

Pursuant to TSCA section 26(b), this final rule establishes fees for certain activities under TSCA sections 4, 5, and 6 to defray approximately 25% of the costs to carry out a broader set of activities under these sections of TSCA and of collecting, processing, reviewing, and providing access to and protecting from disclosure, as appropriate under TSCA section 14, information on chemical substances under TSCA. In addition, the final rule establishes fees for risk evaluations requested by manufacturers to defray 50% or 100% of the costs, depending on whether the chemical is listed on the TSCA Work Plan or not, respectively.

After consideration of public comments, EPA is finalizing a number of provisions from the proposed rule without modification, including the general methodology for calculating fees (except in the case of manufacturer-requested risk evaluations), the program cost estimates, the eight proposed fee categories, the fee amounts, the allowance of payment of fees through consortia, the discounted fees for small business concerns, and the provision of refunds under certain circumstances.

Based on consideration of public comments, the final rule also includes certain modifications and clarifications related to the proposal. For example, in response to comments, the final rule includes a new process for identifying manufacturers subject to fee obligations for TSCA section 4 test rules and TSCA section 6 EPA-initiated risk evaluations, including publication of a preliminary

list, opportunity for public comment, self-identification, and/or certification of no manufacture, and publication of a final list defining the universe of manufacturers obligated to pay. The final rule also reflects modifications to the proposed methodology for calculating fees for manufacturer-requested risk evaluations, the timing for consortia formation, payment due dates, and the standard for small business concerns. Finally, the final rule provides the additional clarity requested by commenters in areas including: The allocation of fees in complex multi-payer scenarios, the estimation of program costs and activity level assumptions, and the circumstances for providing refunds. The content of the final rule and these changes are discussed in greater detail in Unit III.

III. Discussion of the Final Rule and Response to Comments

A. Purpose and Applicability

As described in 40 CFR 700.40, the purpose of the final rule is to establish and collect fees from manufacturers (including importers) and processors to defray a portion of EPA's TSCA implementation costs. The rule applies to manufacturers who are required to submit information under TSCA section 4, manufacturers and processors who submit certain notices and exemptions under TSCA section 5, and to manufacturers who are subject to risk evaluation under TSCA section 6(b), including manufacturers who submit requests for risk evaluation under TSCA section 6(b)(4)(C)(ii).

B. Entities Subject to Fees

Although EPA has authority to collect fees from both manufacturers and processors of chemical substances, the final rule focuses fee collection primarily on manufacturers. EPA will collect fees from processors only when processors submit a SNUN or test-marketing exemptions (TME) under section 5, when a section 4 activity is tied to a SNUN submission by a processor, or when a processor voluntarily joins a consortium and therefore agrees to provide payment as part of the consortium. This approach is consistent with the proposed rule and with most comments received. Although a few commenters urged EPA to allocate more of the fee burden to processors, EPA is declining to do so at this time. EPA believes the allocation primarily to manufacturers, and, in limited circumstances, to processors, is an appropriate balance as required in TSCA. As noted in the proposal, the effort of trying to identify relevant processors for all fee-triggering actions would be overly burdensome and EPA expected many processors would be missed. Generally limiting fee obligations to manufacturers is the simplest and most straightforward way to assess fees for conducting risk evaluations under TSCA section 6 and most TSCA section 4 testing activities. Furthermore, EPA expects that manufacturers required to pay fees will have a better sense of the universe of processors and will pass some of the costs on to them.

C. Identifying Manufacturers Subject to Fee Obligations

The proposed rule suggested that EPA would use Chemical Data Reporting (CDR) data to identify manufacturers subject to fee obligations, but would also rely on self-identification from other manufacturers not subject to CDR reporting requirements. EPA also proposed to include a ''manageable approach'' in the final rule for identifying manufacturers subject to fees for TSCA section 4 and 6 activities, and requested public comment in this area. See 83 FR 8212, 8216. EPA also requested comment on whether to adopt a process that would allow time for public input before finalizing a list. A number of commenters agreed that such a process was necessary, and EPA is codifying a process in the final rule to provide the necessary clarity and certainty for those potentially subject to fees.

1. In general. EPA intends the process to include publication of a preliminary list that identifies manufacturers (based on information available to EPA through CDR reporting and other sources), a public comment period (to allow for self-identification, correction of errors, and certification of no-manufacture and no intention to manufacture in the next five years), and publication of a final list defining the universe of manufacturers responsible for payment. Further, EPA will follow this process for only two fee-triggering events: TSCA section 4 test rules and TSCA section 6 EPA-initiated risk evaluations. EPA believes that for all other fee-triggering events, the relevant manufacturer(s) will already be apparent to the Agency and a specific identification process will not be necessary. This process is not necessary for TSCA section 5 activities, TSCA section 4 enforceable consent agreements (ECAs), or TSCA section 6 manufacturer-requested risk evaluations as manufacturers are self-identified through those activities. The process is also not necessary for TSCA section 4 test orders, as EPA will ultimately select the manufacturer(s) subject to the order prior to or during the development of the order.

2. Data sources. To compile the preliminary list, EPA will use the most up-to-date information available, including information submitted to the Agency (*e.g.,* information submitted under TSCA sections 5(a), 8(a) (including CDR), 8(b), and to the Toxics Release Inventory) as well as other information available to the Agency, such as publicly available information (*e.g.,* Panjiva) or information submitted to other agencies to which EPA has access (*e.g.,* U.S. Custom and Border Patrol data). To be able to include the most recent CDR data (collected every four years) and to account for annual or other typical fluctuations in manufacturing (including import), EPA will use five years of data submitted or available to the Agency to create the preliminary list. Although some commenters suggested looking back a greater or fewer number of years, EPA believes that a five-year period enables EPA to utilize a number of data sources described earlier and increase accuracy.

3. Publication of preliminary list. EPA will publish this preliminary list in the **Federal Register** concurrently with a relevant milestone for each action. For risk evaluations initiated by EPA under TSCA section 6, the preliminary list will be published at the time of final designation of the chemical substance as a High-Priority Substance. For test rules under TSCA section 4, the preliminary list will be published with the proposed test rule.

4. Public comment period. Publication of the preliminary list will be followed by a comment period of no less than 30 days, during which manufacturers and the public will have the opportunity to correct errors, self-identify as a manufacturer, and/or certify to already having exited the market and that they will not return for a period of 5 years. EPA believes this process is largely consistent with comments on the proposal encouraging EPA to publish a preliminary list and engage with stakeholders to identify others who may be missing, correct errors, and provide an opportunity for manufacturers to be removed from the list under certain circumstances.

5. Self-identification and certification. If a manufacturer is on the preliminary list, or is not on the preliminary list but is a manufacturer of the chemical substance at issue, they must report to EPA and self-identify with certain basic contact information. Although EPA expects reporting to occur through CDX, EPA has developed a form to reflect the self-identification statements, for reference purposes. (Ref. 9.)

Manufacturers on the preliminary list also have an opportunity to certify through CDX that (1) they have already ceased manufacturing prior to the defined cutoff dates and will not manufacture for five years into the future, or (2) they have not ever manufactured the chemical substance. If EPA receives such a certification statement from a manufacturer, the manufacturer will not be obligated to pay the fee. Manufacturers who are not listed on the preliminary list and otherwise believe they can ''certify out'' as described previously, may choose to attest these facts to EPA. However, if information received during the public comment period would prompt the addition of manufacturers to the final list, EPA will first notify those manufacturers. Manufacturers who plan to cease manufacture in the future (but have not yet done so), or those who have already ceased but may re-enter the market within the next five years, would not be permitted to certify out, and would still be subject to the fee obligation. The cutoff date (*i.e.,* the date by which manufacture must have ceased in order to certify out) for an EPA-initiated risk evaluation is the date upon which the prioritization process is initiated for that chemical (*i.e.,* approximately 9–12 months before the risk evaluation begins and 9–12 months before the preliminary list is published). The cutoff date for a TSCA section 4 test rule is the date upon which the proposed test rule is published. EPA chose an earlier cutoff date for risk evaluations to provide greater assurance that the manufacturer has exited the market and will not return for five years. Numerous commenters expressed concerns that some manufacturers may only temporarily stop manufacture to avoid potentially significant fee obligations, and subsequently return to the market. The earlier cutoff date provides an extra measure of protection against that scenario. See paragraph 7 for additional discussion regarding free riders and late entrants.

6. Publication of final list. After the comment period for the preliminary list of entities subject to a fee obligation, EPA will make any associated updates or corrections, and then publish a final list of manufacturers. This list will indicate if any manufacturers were identified in error, any additional manufacturers that were identified through the comment period and/or reporting form, and if any manufacturers have certified that they have already ceased manufacture prior to the cutoff date described earlier and will not manufacture the subject chemical substance for five years into the future. The final list will be published concurrently with the final scope document for risk evaluations initiated by EPA under TSCA section 6, and with the final test rule under TSCA section 4.

7. Free riders and late entrants. A number of commenters raised concerns about the potential for manufacturers to exit the market shortly before or during the fee-triggering event, and avoid their fee obligations. Commenters expressed further concern about those same manufacturers re-entering the market shortly after the fee-triggering event, thereby getting a ''free ride.'' Other commenters suggested that EPA also impose fees on ''late entrants'' (*i.e.,* manufacturers who enter the market after the fee-triggering event has concluded), and reallocate fees accordingly, and provide partial refunds as appropriate. EPA believes that the identification process will help prevent the problems identified by some commenters regarding free riders and manufacturers who may otherwise too easily exit and reenter the market to avoid fee obligations. Specifically, the final rule requires manufacturers to self-identify, and, for those who have exited the market, certify that they will not manufacturer for at least 5 years or face penalties for violating TSCA. For chemicals with ongoing uses, there is no requirement for new market entrants to provide notice to EPA. Furthermore, it is impracticable for EPA to administer fees to such late entrants by reallocating fee amounts, collecting additional monies, and providing partial refunds to previously identified manufacturers. Those entities who truly begin to manufacture during or after the fee event would not be subject to fees, late charges or other penalties, but this is consistent with how TSCA operates in the new chemicals context: New manufacturers, not subsequent chemical manufacturers, are required to submit PMNs and pay fees and subsequent manufacturers are not obligated to reimburse a PMN submitter.

Existing manufacturers who fail to identify themselves as required by this rule is a prohibited act under TSCA section 15(1) and therefore subject to a penalty under TSCA section 16. EPA views each day of failed identification by a manufacturer past the payment due date as a separate event subject to penalty. Likewise, manufacturers who falsely certify to having ceased manufacture and/or not re-initiating manufacture within five years will also be subject to penalty.

D. Methodology for Calculating Fees

For the proposed rule, EPA calculated fees by estimating the total annual costs of administering TSCA sections 4, 5, and 6 (excluding the costs of manufacturer-requested risk evaluations) and of collecting, processing, reviewing, and providing access to and protecting from disclosure as appropriate under TSCA section 14; identifying the full cost amount to be defrayed by fees under TSCA section 26(b) (*i.e.,* 25% of those annual costs); and allocating that amount across the fee-triggering events in TSCA sections 4, 5, and 6, weighted more heavily toward TSCA section 6 based on early industry feedback. EPA specifically requested comment on this methodology. While a number of commenters generally supported the allocation as an appropriate balance of fees amongst activities in TSCA sections 4, 5, and 6, many commenters offered alternative suggestions for calculating fees, such as an actual cost approach or level-of-effort approach.

A common theme from commenters was that fees, particularly those for TSCA section 6 activities, should more closely align with EPA's actual costs for carrying out the specific activity on the specific chemical. Some commenters pointed to the likelihood for variability in costs stemming from the number of uses evaluated, extent of exposures, amount of existing information such as assessments from other government bodies, the level of contractor support necessary, the complexity and number of tests required, and other factors.

As a general matter, EPA believes it is important to track costs on a chemical and activity basis in light of the increased responsibilities under TSCA and the need to better understand associated new costs. The Agency is working towards building this capability and, consistent with commenters' suggestions, expects to begin tracking actual costs on a chemical basis as soon as feasible. EPA plans to use our time reporting system to track employee hours and contract expenditures for each chemical undergoing risk evaluation and at the fee category level for section 4 and 5 activities. EPA also plans to track CBI claim review direct and programmatic support costs as well as cross cutting costs, direct costs and indirect costs associated with section 4, 5, 6, and collecting, processing, reviewing, and providing access to and protecting from disclosure as appropriate under section 14 information on chemical substances under TSCA. However, EPA does not currently track costs with this level of

specificity and, as with any new activity, expects there to be some initial challenges as it works to do so. As such, EPA does not believe it would be feasible or appropriate to implement an actual cost approach for all fee-triggering events at this time. Furthermore, because actual costs of individual activities are unknown at this time and unknowable in advance (*i.e.,* every activity will be unique and bear different actual costs), and because the fee-triggering events are a narrower subset of the activities that TSCA fees must defray, it is unclear how EPA could ensure that an actual cost approach would yield fee revenue sufficient to defray 25% of the overall TSCA implementation costs associated with section 4, 5, and 6, and collecting, processing, reviewing, and providing access to and protecting from disclosure as appropriate under section 14 information on chemical substances under TSCA, absent a better understanding of the actual costs of these new activities. More generally, EPA has many new responsibilities under TSCA and relatively little information and experience to inform assumptions on costs or activity levels. EPA expects to gain valuable experience implementing this initial fee structure. Ultimately, EPA believes this initial experience and information gained from tracking actual costs will help EPA to continue refining methodologies for calculating fees, and will inform potential revisions to the fee structure in the future. To inform these revisions EPA plans to use our time reporting system to track employee hours and contract expenditures for each chemical undergoing risk evaluation and at the fee category level for section 4 and 5 activities. EPA also plans to track CBI claim review direct and programmatic support costs as well as cross cutting costs, direct costs and indirect costs associated with section 4, 5, 6, and collecting, processing, reviewing, and providing access to and protecting from disclosure as appropriate under section 14 information on chemical substances under TSCA. Congress implicitly recognized the benefit of gained experience and understanding over time by requiring EPA to revisit the fees structure every three years. Therefore, after considering the comments, for the final rule, EPA has determined to calculate the fees using the same approach as used in the proposed rule for most fee categories.

EPA is, however, finalizing an actual cost approach for calculating fees for manufacturer-requested risk evaluations. Although EPA proposed a static fee for manufacturer-requested risk evaluations based on general cost estimates for risk evaluation activities, upon further consideration and in light of public comments received, EPA will include a provision in the final rule to align this fee with the actual costs of the activity as a plain reading of TSCA would require. Specifically, EPA will require an initial payment of $1,250,000 (for a chemical on the TSCA Work Plan) or $2,500,000 (for a chemical not on the TSCA Work Plan), payable within 30 days after granting the request, and a final invoice to total either 50% or 100% of the actual costs in line with the percentage requirements in TSCA, or a refund to achieve these requirements, if warranted. As described in this unit, EPA estimates the cost of a manufacturer-requested risk evaluation to be approximately $3.88M. The initial payment amounts were calculated to capture approximately two thirds of either 50% or 100% of that estimated cost, with the expectation that approximately the last third would come from the final payment. This approach is well-supported in the language of TSCA, which explicitly requires the Agency to collect a percentage of costs incurred ''in conducting the risk evaluation'' (*i.e.,* 50% or 100%, depending on whether or not the chemical is on the TSCA Work Plan). TSCA section 26(b)(4)(D) specifies that EPA shall establish a fee for manufacturer-requested risk evaluations sufficient to defray the full costs (or 50% of the costs for TSCA Work Plan chemicals) and the approach being finalized is consistent with that. Commenters had a variety of suggestions for how to implement an actual cost approach (*e.g.,* multiple payments at various milestones, small upfront payments or application fees followed by one or more additional payments, multiple payments based on target cost estimate ranges, etc.), but EPA determined that a simple two-payment approach—an initial payment, followed a final invoice at the conclusion of the risk evaluation for the total remaining due, or a refund—was a fair, understandable and practical approach in line with EPA's goals for the rulemaking.

EPA is confident that the actual cost approach for manufacturer-requested risk evaluations will be implementable for these activities beginning in FY19. Because fees collected for manufacturer-requested risk evaluations do not count towards the requirement that fees defray 25% of overall implementation costs in TSCA section 26(b)(4)(F), there is not a need to count manufacturer-requested risk evaluation fees towards achieving a specific percentage of total revenue collected. Additionally, EPA continues to believe that these types of requests will generally be less complex (*i.e.,* companies will request risk evaluations on chemicals that are likely to present fewer significant risk issues) than most EPA-initiated risk evaluations, and therefore easier/simpler to assess and track for actual costs.

E. Fee Categories

EPA proposed 8 distinct fee categories: (1) Test orders, (2) test rules and (3) enforceable consent agreements, all under TSCA section 4; (4) notices and (5) exemptions, both under TSCA section 5; and (6) EPA-initiated risk evaluations, (7) manufacturer-requested risk evaluations for chemicals on the TSCA Work Plan, and (8) manufacturer-requested risk evaluations for chemicals not on the TSCA Work Plan, all under TSCA section 6. Although EPA received some comment on these and other potential fee categories as described later in this discussion, EPA is not altering these fee categories for the final rule. The activities in these categories are fee-triggering events that result in obligations to pay fees under this final rule.

As a general matter, EPA received very few comments on the categories proposed for TSCA section 4 activities. One commenter expressed concern that testing requirements that are associated with TSCA section 5 or 6 activities should not be subject to a separate TSCA section 4 fee, otherwise it would amount to double-charging. EPA disagrees with this characterization. Cost estimates for TSCA section 4 activities do not overlap with cost estimates for TSCA section 5 or 6 activities, and the expenses defrayed by the fees are different. There is a cost to the Agency to (1) develop an order, rule or consent agreement, and (2) to review the data. These costs are separate from and in addition to the costs associated with review of a TSCA section 5 notice or exemption, or undertaking a TSCA section 6 risk evaluation.

EPA received a number of comments related to TSCA section 5 fee categories—most pertaining to the proposed fees for low-volume exemptions (LVEs) and other exemptions. A number of commenters sought to eliminate the exemption fee category entirely, and particularly for LVE fees. Historically, EPA has not charged a fee for TSCA section 5 exemption applications (*e.g.,* LVE, low exposure/low release exemptions (LoREX), test-marketing exemptions (TME), TSCA experimental release

applications (TERA), etc.). EPA's prior fee structure was set in 1988 and, while TSCA authorized EPA to collect fees for exemption applications, EPA only implemented fees for PMNs, SNUNs, and MCANs. EPA is imposing fees in this rule for all exemption submissions, except Tier I and polymer exemptions because the expected revenue from those activities would be largely negated by the administrative costs of collection. Some commenters suggested that fees for any exemption application would become a barrier to research, development and innovation. While EPA shares commenters' general concerns for impacts to innovation, EPA does not believe the LVE fee—a onetime $4,700 cost per submission ($940 for small business concerns)—will be a significant barrier to chemical industries seeking to introduce a new chemical to market. There is already a regulatory exemption from the TSCA section 5 notice requirements for those who manufacture only for research and development purposes (see 40 CFR 720.36). Another commenter asked EPA to clarify whether there would be a fee for bona fide submissions to ascertain whether or not a chemical is on the TSCA Inventory. EPA did not propose a fee for bona fide submissions, and there is no fee in the final rule for such submissions. Moreover, if a PMN was determined not to be a new chemical substance, the submitter would be due a full refund.

No commenters opposed the proposed fee categories for TSCA section 6 activities. However, several suggested exclusions or discounts for those who manufacture a chemical as an impurity or byproduct, or those who manufacturer chemicals for small, niche markets as their revenue may be insufficient to support a risk evaluation. As indicated earlier, EPA is not adjusting the fee categories in the final rule. TSCA requires EPA to evaluate chemicals under their conditions of use, and conditions of use evaluated may involve manufacture of impurities or byproducts, or chemicals used in niche market applications. As such, EPA does not believe it would be appropriate to exclude these manufacturers from fee obligations for TSCA section 6 activities.

Finally, EPA solicited comment in the proposed rule about the potential for additional fee categories for other TSCA activities such as CBI claims or risk management activities. A majority of commenters opposed fee categories or surcharges associated with submission of CBI claims, with the exception of some who noted that requiring payment of fees could help reduce the number of unwarranted claims. Commenters were split regarding a separate risk management fee. Several opposed a separate fee, suggesting there was no authority in TSCA to implement one. Other commenters encouraged EPA to include a separate fee category for risk management activities to both place the costs of this activity on companies choosing to use more dangerous chemicals, and to incentivize companies to move to safer chemistries. After further consideration, EPA has determined not to add these additional categories. EPA already accounted for both CBI and risk management activities in the baseline cost estimates in the proposed rule, meaning that EPA will recover a portion of these costs through the other fee categories. EPA believes this approach is in line with TSCA section 26, which does not explicitly authorize EPA to assign fees for CBI claims or risk management activities. EPA expects that the historical problem of unwarranted CBI claiming will be mitigated to a certain extent by enhanced CBI review requirements for EPA and substantiation requirements in TSCA. Similarly, EPA believes that the new general requirements for prioritization and evaluation of existing chemicals will themselves be a disincentive to manufacturing chemicals with more significant risks.

F. Program Cost Estimates and Activity Assumptions

The estimated annual Agency costs of carrying out TSCA section 4, 5, and 6, and of collecting, processing, reviewing, and providing access to and protecting from disclosure as appropriate under TSCA section 14 information on chemical substances under TSCA, are approximately $80.2 million excluding the estimated cost of having 5 manufacturer-requested risk evaluations underway each year. Because the 25% cap on cost recovery does not apply to manufacturer-requested risk evaluations, the total cost to which the cap applies is $80.2 million. Based on these cost estimates, EPA anticipates collecting approximately $20 million in fees not associated with manufacturer-requested risk evaluations. In addition, the Agency intends to collect fees from manufacturers to recover 50% or 100% of the actual costs incurred by EPA in conducting chemical risk evaluations requested by manufacturers. EPA expects the amount collected will be approximately $1.94 million per chemical for chemicals on the TSCA Work Plan and $3.9 million per chemical for chemicals not on the TSCA Work Plan.

EPA determined the anticipated costs associated with TSCA sections 4, 5, and 6 of collecting, processing, reviewing, and providing access to and protecting from disclosure as appropriate under TSCA section 14 information on chemical substances under TSCA, including both direct program costs and indirect costs (see Table 1). For fiscal year 2019 through fiscal year 2021, these costs were estimated to be approximately $80.2 million per year. More detail on how anticipated costs were calculated follows in Unit III.B.2.

TABLE 1—ESTIMATED ANNUAL COSTS TO EPA

[Fiscal Year 2019 through Fiscal Year 2021]

	Direct program costs	Indirect costs	Annual costs
TSCA Section 4	$2,765,000	$778,000	$3,543,000
TSCA Section 5	22,375,000	6,296,000	28,672,000
TSCA Section 6	34,073,000	9,545,000	43,618,000
TSCA Chemical Information Management	3,531,000	814,000	4,345,000
Total	62,744,000	17,425,000	80,178,000

Notes: Numbers may not add due to rounding. The indirect cost rate for Office of Chemical Safety and Pollution Prevention is estimated at 28.14% for the purposes of this analysis.

After estimating the annual costs of administering TSCA section 4, 5, and 6, and of collecting, processing, reviewing, and providing access to and protecting from disclosure as appropriate under TSCA section 14 information on chemical substances under TSCA, the Agency had to determine how the costs would be allocated over the narrower set of activities under TSCA section 4, 5 and 6, which trigger a fee. The Agency took an approach to determining fees that tied the payment of fees to individual distinct activity types or ''fee-triggering events''. This allows allocation of costs more equitably among the activity types and their related costs.

1. Program costs. To determine the program costs for implementing TSCA sections 4, 5, and 6, of collecting, processing, reviewing, and providing access to and protecting from disclosure as appropriate under TSCA section 14 information on chemical substances under TSCA, the Agency accounted for the intramural and extramural costs for activities under these sections. Intramural costs are those costs related to the efforts exerted by EPA staff and management in operating the program, collecting and processing information and funds, conducting reviews, and related activities. Extramural costs are those costs related to the acquisition of contractors to conduct activities such as analyzing data, developing IT systems and supporting the TSCA Help Desk. The Agency then added indirect costs to the direct program cost estimates. The Agency used an indirect cost rate of 28.14% to calculate the indirect costs associated with all direct program cost estimates for TSCA sections 4, 5, 6 and collecting, processing, reviewing, and providing access to and protecting from disclosure as appropriate under TSCA section 14 information on chemical substances under TSCA.

Some commenters expressed concerns that agency cost estimates and fee amounts were too low while other commenters expressed concerns that general or specific cost estimates, or fee amounts were too high or were not well substantiated. EPA continues to believe that the estimates presented represent the best estimates possible given our reliance, to the extent possible, on past experience and consideration of the additional work under the expanded authorities in the amended statute. Given this limited experience with novel obligations and authorities, our costs are estimates and subject to change and become more precise over time. However, EPA informed these estimates by relying on past experience with similar activities coupled with significant interaction and discussion with programmatic staff and management to develop estimates.

Because of the novelty and expanded scope of many aspects of the program under amended TSCA, EPA is not able to fully benchmark or substantiate all our estimates through past staffing or contract budget needs for identical activities. However, EPA carefully took into account the expanded requirements for risk evaluation, risk management, and new chemical review activities as well as the new test order authority when developing the cost estimates. Furthermore, EPA believes that Congress understood the uncertainty in standing up a new chemical review and management program and therefore required EPA to perform annual audits and reassess fees every three-years to allow for costs estimates and the associated fees to be refined.

a. TSCA section 4 program costs. TSCA section 4 gives EPA the authority to require (by rule, order, or ECA) manufacturers and processors to conduct testing of identified chemical substances or mixtures. EPA estimated TSCA section 4 activity costs based on prior experience with developing test rules and ECAs, reviewing study plans, and reviewing the data received. These activity level assumptions represent EPA's best professional judgment on how the program will be implemented in the first 3-year fees cycle. EPA estimates that, on average, it will undertake work associated with 10 test orders, one test rule and one ECA each year. While EPA expects to work on one test rule and one ECA each year, we expect to initiate each of these activities about every other year as it takes approximately two years to complete the work associated with both of these activities. While not EPA's current practice, these estimates represent EPA's best estimate on the work that will be required as a result of the 2016 amendments to TSCA, including the requirements to prioritize chemicals for risk evaluation review and to have 20 risk evaluations underway at all times beginning in December 2019.

EPA used historical averages of the number of affected firms per chemical from the three most recent section 4 test rules for high production volume (HPV) chemicals (71 FR 13708, March 16, 2006) (FRL–7335–2); (76 FR 4549, January 26, 2011) (FRL–8862–6); and (76 FR 65385, October 21, 2011) (FRL–8885–5) and assumed an average of seven chemicals involved per TSCA section 4 action and four affected firms per chemical. EPA based Section 4 costs on our general experience with the rulemaking process, our experience with the developing an ECA for Octamethylcyclotetrasiloxane (D4) and costs associated with reviewing information received, and administration of, the HPV Voluntary Testing Program. EPA relied on this past experience augmented thorough a process of coordination with programmatic staff and management to estimate the TSCA section 4 costs.

EPA's cost estimates included a full suite of activities related to developing and implementing actions under the TSCA section 4 authorities including development of screening-level hazard and environmental fate information, including tests that provide information on the toxicity of a chemical (*e.g.,* aquatic toxicity, and mammalian toxicity). EPA also included estimates of the costs of reviewing physical/chemical properties and environmental fate and pathways data and tests.

Some commenters felt that EPA cost estimates were too low. However, EPA's estimates reflect the best estimates currently available, rely on past programmatic experience, and fully consider the information needs under amended TSCA for section 4 activities. In addition, TSCA section 4 actions have historically included multiple chemicals per action. EPA TSCA section 4 test orders, for example, could cover a group of similar chemicals allowing EPA to collect information on more than 10 chemicals in a given year. Further, if EPA learns that more activities are needed per year or that costs are higher than expected, EPA will appropriately revise the requirements during the annual and three-year review of fees.

Based on previous experience and expected work under TSCA as amended, EPA assumed that testing required by test orders is likely to be completed in under a year, and test rules and ECAs are likely to take two years to complete. To estimate the costs of reviewing test data, we assume that on average, data will be submitted to EPA for seven chemicals in each TSCA section 4 activity and that each chemical would have 4 associated companies to test for a total of 28 firms per action.

Based on this approach, the estimated cost to the Agency of each test order is approximately $279,000. Each test rule is estimated to cost approximately $844,000 and each enforceable consent agreement is estimated to cost approximately $652,000. These cost estimates include submission review and are based on projected full-time equivalent (FTE) and extramural support needed for each activity divided by the number of orders, rules and ECAs EPA assumes will be worked on over a

three-year period. Several of these activities (rules and ECAs) are expected to span two years, as noted earlier so those estimates are based on the annual estimated costs multiplied by two. The annual cost estimate of administering TSCA section 4 in fiscal year 2019 through fiscal year 2021 is $3,543,000 (Ref. 3: Table 8).

b. TSCA section 5 program costs. TSCA section 5 requires that manufacturers and processors provide EPA with notice before initiating the manufacture of a new chemical substance or initiating the manufacturing or processing for a significant new use of a chemical substance. EPA is required to review and make affirmative determinations for new chemical submission and take risk management action, as needed.

Examples of the notices or other information that manufacturers and processors are required to submit under TSCA section 5 are PMNs, significant new use notifications (SNUNs), microbial commercial activity notices (MCANs), and numerous types of exemption notices and applications (*e.g.,* low-volume exemptions [LVEs], test-marketing exemptions [TMEs], low exposure/low release exemptions [LoREXs], TSCA experimental release applications [TERAs], certain new microorganism [Tier II] exemptions, film article exemptions, etc.).

EPA's TSCA section 5 efforts prior to the 2016 amendments to TSCA are well understood through experience that spans several decades. The Agency has 40 years of experience and historical data on costs, as well as the number of different TSCA section 5 submission types sent to the Agency each year under the previous statute. In 1987, the costs for the Agency to process a PMN were approximately up to $15,000 per submission, depending on the amount of detailed analysis necessary; these estimates did not include indirect costs. Recent data on the number of annual submissions is found at *https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/statistics-new-chemicals-review.* In calendar year 2016, EPA received 577 PMNs, SNUNs and MCANs, and another 560 exemption notices and applications, most of which were LVEs.

Cost estimates were developed based on our historical understanding of costs, extensive consultation with programmatic staff and management and careful consideration of the requirements for new chemical reviews under amended TSCA, including the requirement to make an affirmative safety determination, and costs of pre-notice consultation. Based on the extent of past experience to rely upon for costs estimation, TSCA section 5 costs are some the best understood in terms of anticipated activity level and per activity cost.

Some commenters commented that EPA did not fully consider the statutory requirements under amended TSCA. However, EPA feels the costs are developed using our robust historical cost understanding, extensive discussion with programmatic staff and management, and consideration of the requirements under amended TSCA to evaluate intended, known, or reasonably foreseen conditions of use and the Agency's costs of taking any related required regulatory action such as with a SNUR and/or a consent order. Costs of reviewing any data that is submitted to EPA as a result of an order is also included in EPA's estimates. EPA's cost estimates for administering TSCA section 5 also include the costs associated with processing and retaining records related to a Notice of Commencement (NOC) submission. NOC costs also include the cost of registering the chemical with the Chemical Abstracts Service. EPA has lumped the costs associated with NOCs (totaling an estimated $1,700,000 per year) with those of PMNs, MCANs and SNUNs. The estimated average cost for EPA to review a PMN, MCAN and SNUN is approximately $55,200. This estimate is based on projected FTE and extramural support needed for these actions divided by the number of submissions the Agency assumes will be received each year once fees are in place. EPA estimated that there will be 462 submissions annually. EPA's estimate of number of submissions is based on submissions received in FY 16, and reduced by 20% due to the anticipated impact of increased fees on the number of submissions (Ref. 3: Table 9). EPA does not believe that this estimated reduction in submissions will translate into a reduction in new chemicals entering commerce as only roughly 57% of new chemicals reviewed by EPA have historically entered commerce. Furthermore, EPA acknowledges that these activity level assumptions are only estimates and there is underlying uncertainty regarding the true impact of these fees.

Estimated costs associated with TSCA section 5 exemption notices and applications include pre-notice consultation, processing and reviewing the application, retaining records, and related activities. The average cost for EPA to review an exemption is $5,600. This estimate is based on projected FTE and extramural support needed for these actions divided by the number of submissions the Agency assumes will be received each year once fees are in place. EPA estimates that there will be 560 exemptions submitted annually. While EPA did not assume a reduction in the number of exemption submissions, EPA acknowledges that these activity level assumptions are only estimates and there is underlying uncertainty regarding the true impact of fees on exemption submissions. Our estimate of number of submissions is based on submissions received in FY 16 (Ref. 3: Table 10).

The annual cost estimate of administering TSCA section 5 in fiscal year 2019 through fiscal year 2021 is $28,600,000. Approximately $25,500,000 is attributed to PMNs, SNUNs and MCANs; another approximately $3,149,000 is attributed to section 5 exemptions notices and applications for LVEs, LoREXs, TMEs, TERAs, Tier IIs and film articles.

c. TSCA section 6 program costs. TSCA section 6 describes EPA's process for assessing and managing chemical safety under TSCA. TSCA section 6 addresses: (a) Prioritizing chemicals for evaluation; (b) evaluating risks from chemicals; and (c) addressing unreasonable risks identified through the risk evaluation. Under TSCA, EPA is now required to undergo a risk-based prioritization process to designate existing chemicals on the TSCA Inventory as either high-priority for risk evaluation or low-priority. EPA is also currently considering approaches for identifying potential candidates for prioritization and has included estimates for this the EPA costs for TSCA section 6. For chemicals designated as high-priority substances, EPA must evaluate existing chemicals to determine whether they ''present an unreasonable risk of injury to health or the environment'' (TSCA section 6(a)). Under the conditions of use the Agency expects to consider for each chemical, the Agency will assess the hazard(s), exposure(s), and the potentially exposed or susceptible subpopulation(s) that EPA determines are relevant. This information will be used to make a final determination as to whether the chemical presents an unreasonable risk under the conditions of use. The first step in the risk evaluation process, as outlined in TSCA, is to issue a scoping document for each chemical substance within six months of its designation in the **Federal Register**. The scoping document will include information about the chemical substance, such as conditions of use, exposures, including potentially exposed or susceptible subpopulations, and hazards, that the Agency expects to consider in the risk

evaluation. TSCA requires that these chemical risk evaluations be completed within three years of initiation, allowing for a 6-month extension. By the end of calendar year 2019, EPA must have at least 20 chemical risk evaluations ongoing at any given time on high-priority chemicals, have identified at least 20 low-priority substances for which risk evaluation is not warranted at this time, and have an additional 5–10 manufacturer-requested risk evaluations underway, if sufficient requests and fee payments have been made. For each risk evaluation that the Agency completes for a High-Priority Substance, TSCA requires that EPA identify another High-Priority Substance. The Agency expects to have between 25 and 30 risk evaluations ongoing at any time in any given year at different stages in the review process.

TSCA section 6 cost estimates have been informed by the Agency's experience completing assessments for several TSCA Work Plan chemicals, including N-methylpyrrolidone, antimony trioxide, methylene chloride, trichloroethylene, and 1,3,4,6,7,8-Hexahydro-4,6,6,7,8,8-hexamethylcyclopenta[γ]-2-benzopyran (HHCB) and by the Agency's experience with risk management actions addressing risks identified from particular uses of a chemical. In addition, EPA relied on our experience with work to date on the first ten 10 chemicals currently undergoing risk evaluation. TSCA section 6 risk evaluation costs include the cost of information gathering, considering human and environmental hazard, environmental fate, and exposure assessments. Costs also include the use of the ECOTOX knowledge and Health and Environmental Research Online (HERO) databases, among others. Other costs include scoping (including problem formulation, conceptual model and analysis plan), developing and publishing the draft evaluation, conducting and responding to peer review and public comment, and developing the final evaluation, which includes a risk determination.

Under TSCA section 6, the Agency also has obligations to take action to address the unreasonable risks identified from a chemical. TSCA section 6(a) provides authority for EPA to prohibit or otherwise restrict the manufacture, processing, distribution in commerce, and commercial use of chemicals, as well as any manner or method of disposal of chemicals. Cost estimates for risk management activities have been informed, in part, by EPA's recent risk reduction actions on several chemicals, including development of the proposed rules regarding the use of N-methylpyrrolidone and methylene chloride in paint and coating removal and trichloroethylene in both commercial vapor degreasing and aerosol degreasing and for spot cleaning in dry cleaning facilities.

In addition to considering previous experience with TSCA Work Plan chemicals described in this Unit, EPA also benchmarked risk evaluation costs against cost associated with conducting risk assessments for pesticides under the Pesticide Registration Improvement Act (PRIA). The Agency chose the costs of conducting reviews for new conventional food-use pesticide active ingredients as the most relevant comparison to an existing chemical review under TSCA based on the scope and complexity of the assessments and the data considered in conducting the reviews. EPA estimates the cost of completing a risk assessment and risk management decision for a new conventional food use pesticide active ingredient to be approximately $2,900,000 which includes direct cost estimates provided by the Office of Pesticide Programs and indirect costs at 28.14%. The primary rationale for the increased cost estimate for a risk evaluation under TSCA when compared to a new pesticide review under PRIA are that the scope of an existing chemical assessment under TSCA is expected to be broader in terms of conditions of use and exposure scenarios that will be assessed.

EPA also expects that risk management costs will be higher under TSCA since rulemaking is required to implement any mitigation that is considered appropriate whereas most mitigation for a pesticide can be achieved directly through changes to the product labeling and/or terms and conditions of the registration. Some commenters commented that risk evaluation costs were over-estimated since risk assessments by private firms are less expensive. EPA does not agree with this as the scope of an assessment from a private firm could be significantly lower than that required under amended TSCA.

The breakdown of costs for an average three-year EPA-initiated chemical risk evaluation is shown in Table 2.

TABLE 2—ESTIMATED COSTS (DIRECT AND INDIRECT) ASSOCIATED WITH AN AVERAGE CHEMICAL RISK EVALUATION

Risk evaluation activity	Estimated cost
Risk Evaluation: Data Gathering (*i.e.*, literature search)	$395,000
Risk Evaluation: Databases (*e.g.*, ECOTOX and HERO)	147,000
Risk Evaluation: Hazard Assessment	1,008,000
Risk Evaluation: Exposure Assessment	1,038,000
Risk Evaluation: Scoping	235,000
Risk Evaluation: Draft Evaluation	502,000
Risk Evaluation: Peer Review & Responding to Comment	230,000
Risk Evaluation: Final Evaluation	329,000
Total	3,884,000

Upon further consideration and in light of public comments received, EPA cost estimates for manufacturer-requested risk evaluations were revised from those in the proposed rule to be consistent with the costs of EPA-initiated risk evaluations and to increase accountability and transparency by using an actual cost approach when determining the fee for a specific manufacturer-requested chemical review. In the proposed rule, EPA estimated the costs of a manufacturer-requested risk evaluation to be $2.6M, and the costs of an EPA-initiated risk evaluation to be $3.88M. Upon consideration of comments and further analysis, for purposes of the economic analysis and burden analysis, EPA estimated the same costs for both manufacturer-requested and EPA-initiated risk evaluations at $3.88M. However, EPA also carefully considered commenters that expressed concern that some risk evaluations may be less burdensome. In order to address concerns with potentially overcharging for some risk evaluations, EPA is implementing an actual cost approach to fees for manufacturer-requested risk evaluations as described in Unit III.

The estimated annual cost of administering TSCA section 6 in fiscal year 2019 through 2021 is $43,618,000. Approximately $32,370,000 is attributed to risk evaluation work on chemical risk evaluations; another approximately $6,584,000 is attributed to risk management efforts; another approximately $2,091,000 is attributed to support from the Office of Research and Development (ORD) for alternative animal testing and methods development and enhancement, data integration, meta-analysis of studies, and providing access to other models, tools and information already developed by ORD, and approximately $2,573,000 is attributed to the process of designating chemicals as High- or Low-priority substances (Ref. 3: Table 11).

d. Costs of collecting, processing, reviewing, and providing access to and protecting from disclosure as appropriate under section 14 information on chemical substances under TSCA. EPA's cost estimates for TSCA section 14 as presented for the proposed rule are unchanged for the final rule.

Some commenters thought that the statutory requirement that EPA collect fees to defray 25% of the costs of ''collecting, processing, reviewing, and providing access to and protecting from disclosure as appropriate under section 14'' would apply to costs beyond those to manage information related to activities in TSCA section 4, 5 and 6. EPA generally agrees and is clarifying that cost estimates do fully consider these costs of general information management but do not include the costs of administering other authorities for collection such as those in TSCA section 8 and 11. EPA does not believe that Congress intended EPA to offset costs associated with administering authorities under these other sections. The statutory text clearly points to the authorities of sections 4, 5, 6 and 14 but not others. If the costs of administering activities under sections 8 and 11 were intended to be defrayed with fees, Congress would have specifically included those authorities in the statutory text. Therefore, cost estimates in the proposed rule already considered costs associated with managing information that for instance, comes in pursuant to a TSCA section 8 rule, but not the costs of developing the TSCA section 8 rule.

In response to commenter's requests to better substantiate costs related to information management, EPA expanded upon the categories in the cost estimates provided in the Technical Background Document (Ref. 3) from those released in the proposed rule to provide a cost breakout that better elaborates which activities were included and the associated cost estimates. Specific activities considered when developing this estimate for these activities include: Prescreening/initial review; substantive review and making final determinations; documents review and sanitization; regulation development; IT systems development; and transparency/communications. Estimates also include Office of General Counsel costs associated with issuing TSCA CBI claim final determinations, and supporting guidance, policy and regulation development for TSCA Section 14 activities, *e.g.,* implementing the unique identifier provisions, access to TSCA CBI for emergency personnel, states, tribes and local governments, the TSCA CBI sunset provisions, among others.

Other chemical information management activities included in the analysis are: The costs for implementation of the Unique Identifier Rule; costs for implementing the requirements in TSCA section 14(d); costs for implementing the CBI sunset requirements; costs for Notice of Activity chemical identity CBI claim reviews, costs for Freedom of Information Act-Related CBI claim reviews; and costs for providing public access to Non-CBI Data and IT costs for operating and maintaining the CBI Local Area Network (LAN). The annual cost estimate of collecting, processing, reviewing, and providing access to and protecting from disclosure as appropriate under TSCA section 14 information on chemical substances under TSCA, including FTE and extramural costs, from fiscal year 2019 through fiscal year 2021 is $4,346,000 (Ref. 3).

1. *Indirect costs.* Indirect costs are the intramural and extramural costs that are not accounted for in the direct program costs, but are important to capture because of their necessary enabling and supporting nature, and so that our proposed user fees will accomplish full cost recovery up to that provided by law. Indirect costs typically include such cost items as accounting, budgeting, payroll preparation, personnel services, purchasing, centralized data processing, and rent. Indirect costs are disparate and more difficult to track than the other cost categories, because they are typically incurred as part of the normal flow of work (*e.g.,* briefings and decision meetings involving upper management) at many offices across the Agency.

EPA accounts for some indirect costs in the costs associated with TSCA sections 4, 5, and 6, costs of collecting, processing, reviewing, and providing access to and protecting from disclosure as appropriate under TSCA section 14 information on chemical substances under TSCA by the inclusion of an indirect cost factor. This rate is multiplied by and then added to the program costs. An indirect cost rate is determined annually for all of EPA offices by the Agency's Office of the Controller, according to EPA's indirect cost methodology and as required by Federal Accounting Standards Advisory Board's Statement of Federal Financial Accounting Standards No. 4: Managerial Cost Accounting Standards and Concepts. An indirect cost rate of 28.14% was applied to direct program costs of work conducted by EPA's Office of Chemical Safety and Pollution Prevention, based on FY 2016 data (Ref. 4). Some of the direct program costs included in the estimates for TSCA sections 4, 5, and 6 and collecting, processing, reviewing, and providing access to and protecting from disclosure as appropriate under TSCA section 14 information on chemical substances under TSCA are for work performed in other Agency offices (*e.g.,* the Office of Research and Development and the Office of General Counsel). Appropriate indirect cost rates were applied to those cost estimates (*i.e.,* 25.56% and 8.05%). These indirect rates are based on an EPA's existing indirect cost methodology (Ref. 4). Indirect cost rates are calculated each year and therefore subject to change. Indirect costs were included in the program cost estimates in the previous sections.

2. *Total costs of fee-triggering events.* The annual estimated costs for fee categories under TSCA section 4, including both direct and indirect program costs are shown in Table 3. Note that the costs presented in Tables 3, 4 and 5 include only the costs of fee-triggering events and so do not include costs associated with CBI reviews, alternative testing methods development, risk management for existing chemicals or prioritization of existing chemicals. Costs associated with those activities are part of the overall costs of administering TSCA sections 4, 5, 6 and of collecting, processing, reviewing, and providing access to and protecting from disclosure as appropriate under TSCA section 14 information on chemical substances under TSCA and, as such, are included in the overall cost estimates previously in Table 1.

TABLE 3—TSCA SECTION 4 COSTS *

Fee category	Estimated number of ongoing actions/year	Estimated cost to agency/action	Estimated annual cost to agency
Test Order	10	$279,000	$2,795,000
Test Rule	1	844,000	422,000
Enforceable Consent Agreement	1	652,000	326,000

* Numbers may not add due to rounding.

The estimated annual costs for fee categories under TSCA section 5, including both direct and indirect program costs are shown in Table 4.

TABLE 4—TSCA SECTION 5 COSTS *

Fee category	Estimated number of ongoing actions/year	Estimated cost to agency/action	Estimated annual cost to agency
PMN and consolidated PMN, SNUN, MCAN and consolidated MCAN	462	$55,200	$25,500,000
LoREX, LVE, TME, Tier II exemption, TERA, Film Article	560	5,600	3,149,000

* Numbers may not add due to rounding.

The estimated annual costs for fee categories under TSCA section 6, including both program and indirect costs are shown in Table 5.

TABLE 5—TSCA SECTION 6 COSTS *

Fee category	Estimated number of ongoing actions/year	Estimated cost to agency/action	Estimated annual cost to agency
EPA-initiated risk evaluation	25	$3,884,000	$32,370,000
Manufacturer-requested risk evaluation: Work Plan chemical	2	3,884,000	2,589,000
Manufacturer-requested risk evaluation: Non-Work Plan chemical	3	3,884,000	3,884,000

* Numbers may not add due to rounding.

G. Fee Amounts

With the exception of manufacturer-requested risk evaluations, EPA is finalizing the fee amounts as described in the proposed rule. EPA applied the same formula to calculate the fees per submission for each fee category as used in the proposal to ensure that 25% of the costs of administering TSCA sections 4, 5, and 6, and of collecting, processing, reviewing, and providing access to and protecting from disclosure as appropriate under TSCA section 14 information on chemical substances under TSCA would be collected in any given year (*i.e.,* approximately $20 million annually in fiscal years 2019 through 2021). Because the eight fee categories do not span all of the activities (*e.g.,* costs of administering TSCA section 14, risk management activities under section 6, prioritization of chemicals for evaluation, support for alternative testing and methods development and enhancement, etc.), EPA set fee amounts to ensure these costs were captured.

1. *Fee amounts in general.* EPA received a number of comments on the specific fee amounts in the proposed rule. Commenters generally had suggestions for adjusting fee amounts in various ways: Some specific to fee categories (described in the subsequent paragraphs) and some more generally applicable across all fee categories. For example, one commenter suggested a maximum fee for scenarios where there is a small number of manufacturers subject to a large fee. Another commenter suggested that fee amounts should be adjustable based on the number of identified manufacturers for the particular chemical and activity. Ultimately, EPA determined not to adjust fee amounts for the final rule based on these general comments. As a primary matter, EPA does not know in advance how many manufacturers will be identified for a particular fee-triggering activity. As such, it would be impossible to provide some type of discount when the number of identified manufacturers is low, while still ensuring that EPA collects sufficient fees overall to defray 25% of implementation costs. EPA made a significant effort to explain its methodology for calculating fees and basis for determining fee amounts in the proposed rule, and has further clarified certain aspects in the final rule. EPA has many new responsibilities under TSCA, and this presents challenges for developing cost estimates for the fees rule. With more experience, EPA may be able to refine estimates and potentially adjust fee amounts when revisiting this rule in the future as required under TSCA.

2. *Fee amounts for TSCA section 4 activities.* EPA is finalizing three fee amounts—one for each of the TSCA section 4 fee categories: Test orders, test rules and ECAs. These fees amount to approximately 3.5% of the total estimated activity cost. Several commenters expressed general support for the lower fee amounts for TSCA section 4 activities. Another commenter felt that section 4 fees were set too

low—that they should be more proportional to actual costs, noting that Congress set a national policy that industry should pay for development of information. One commenter suggested that EPA consider assigning lower fees when companies agree to collaborate and produce data. EPA recognizes that manufacturers will be responsible for paying to develop the test information in addition to paying the TSCA fee, and reflected this in assigning lower fee amounts in the proposed rule. While EPA strongly encourages collaboration amongst manufacturers when developing data, EPA does not believe that such collaboration should result in lower fees. If manufacturers collaborate to voluntarily produce and provide data that EPA needs, that may obviate the need for a test rule or order. If, however, EPA issues a test rule and companies subsequently form a consortium to jointly produce data, no discount would be warranted. EPA would still incur the cost of developing the test rule and reviewing data regardless of the extent of collaboration amongst manufacturers.

3. *Fee amounts for TSCA section 5 activities.* EPA is finalizing two fee amounts for TSCA section 5 activities—one for notices (PMNs, SNUNs and MCANs) at approximately 29% of the estimated cost of the activities, and one for exemptions (LVEs, LoREX, TME, Tier II, TERA and film articles) at approximately 89% of the estimated cost of the activities.

A number of commenters indicated that the proposed TSCA section 5 fees were too high and should be kept as low as possible to promote innovation. Some of these commenters argued that these fees will result in reduced new chemical submissions and lost social benefits, and will reduce research and development efforts in the industry. Another commented that EPA was not permitted under TSCA to set fees based on promoting innovation. Others had more specific comments or requests. Some commenters, for example, suggested that EPA also apply a PMN discount for graduates of EPA's Sustainable Futures program (Ref. 5). Another commenter expressed concern regarding EPA's proposal to establish the same fee amount for both individual and consolidated notices, even though EPA acknowledges that consolidated submissions are more costly to review.

EPA appreciates commenters' concerns regarding increased TSCA section 5 fees and potential impacts to chemical innovation. First, amongst the fee categories for TSCA sections 4, 5, and 6 activities, EPA proposed to collect the bulk of fees from manufacturers subject to TSCA section 6 EPA-initiated risk evaluations, in part, to minimize impacts to innovation and competitive standing for new chemical manufacturers. TSCA calls for EPA to implement TSCA in a manner that does not ''impede'' or create ''unnecessary barriers to technological innovation.'' See TSCA section 2(b)(3). Second, the proposed fee amount for PMNs, MCANs and SNUNs was only moderately higher than the current fee adjusted for inflation (*i.e.,* $10,400). As discussed in the proposed rule preamble, EPA also benchmarked the proposed new chemicals fees against similar activities conducted in EPA's pesticide program and found them to fall within an appropriate range of costs. With respect to specific requests to lower fee amounts, EPA has similarly determined not to make any adjustments for the final rule. Sustainable Futures program graduates do not currently receive a PMN discount and EPA did not propose to provide one. While one aim of the program is to encourage better quality submissions, there is no evidence to support that such submissions are categorically any less complex or expensive to review. EPA chose to lump PMN, MCAN and SNUN fees into a single category, setting a single fee applicable to each, for practical implementation reasons. Although certain activities (*i.e.,* consolidated PMNs and MCANs) may cost the agency more than other activities in the same category (*i.e.,* individual PMNs and MCANs), EPA chose to assign the same fee amount for individual and consolidated submissions in furtherance of EPA's goal to develop a practicable, implementable TSCA fee structure. EPA believes that there is value in keeping the fee structure relatively simple from an implementation perspective, but also because EPA currently lacks the experience and information to more narrowly tailor fees while still meeting the collection requirements in TSCA. Finally, EPA is finalizing the fee amount for section 5 exemptions. EPA is finalizing the proposal to eliminate the ''intermediate PMN'' fee category. As discussed in the preamble to proposed rule, discounted fees are not warranted for intermediate PMNs as EPA has not realized costs savings in review of these submissions. Reviewing and processing these exemptions is not an insignificant amount of work, and EPA believes the exemption fee—set at a fraction of the fee for PMNs and other notices—is well within reason.

4. *Fee amounts for TSCA section 6 activities.* EPA is finalizing one fee amount for EPA-initiated risk evaluations at approximately 35% of the estimated cost of the activity. As indicated earlier, EPA is finalizing an actual cost approach for manufacturer-requested risk evaluations, whereby the requesting manufacturer (or requesting consortia of manufacturers) would be obligated to pay either 50% or 100% of the actual costs of the activity, depending on whether or not the chemical was listed on the TSCA Work Plan, respectively. EPA received a number of comments on the proposed section 6 fee amounts. Some expressed concern that the amounts were too high, and could result in manufacturers abandoning production of critical substances. Others suggested discounts when data/analytical needs were low, when companies voluntarily submit additional data, or if a company would—prior to or during the risk evaluation—agree to voluntarily phase out manufacture of the substance. One commenter requested clarification that only one fee will be required for a risk evaluation, even if it is completed in phases as contemplated in the Risk Evaluation framework rule, and that only one fee will be required for risk evaluations performed on categories of chemicals.

While EPA recognizes the possibility for variation in complexity of a risk evaluation for any number of reasons (*e.g.,* availability of data, number and type of associated uses, etc.), and therefore variation in cost, EPA has limited experience in conducting risk evaluations under new TSCA except for that related to ongoing work associated with the first 10 chemicals, and no experience or evidence to justify specific cost reductions related to number or type of uses, availability of more information, etc. In assigning fees across activities in TSCA sections 4, 5, and 6, EPA believes it achieved an appropriate balance in the proposal: a structure that was both efficient and practical to implement, while also distributing the fee burden across the fee-triggering events consistent with stakeholder input and the goals and policies of TSCA. With respect to commenter's request for clarification, EPA will only charge one fee for each risk evaluation activity, including risk evaluations on a category of substances, regardless of how unreasonable risk determinations may be communicated.

The final fee amounts are described in Table 6.

TABLE 6—FINAL TSCA FEE AMOUNTS

Fee category	Fee amount
TSCA Section 4:	
Test order	$9,800.
Test rule	$29,500.
Enforceable consent agreement	$22,800.
TSCA Section 5:	
PMN and consolidated PMN, SNUN, MCAN and consolidated MCAN.	$16,000.
LoREX, LVE, TME,* Tier II exemption, TERA, Film Articles	$4,700.
TSCA Section 6:	
EPA-initiated risk evaluation	$1,350,000.
Manufacturer-requested risk evaluation on a chemical included in the TSCA Work Plan.	Initial payment of $1.25M, with final invoice to recover 50% of Actual Costs.
Manufacturer-requested risk evaluation on a chemical *not* included in the TSCA Work Plan.	Initial payment of $2.5M, with final invoice to recover 100% of Actual Costs.

* EPA will waive the TME fee for submissions from companies that have graduated from EPA's Sustainable Futures program.

5. *Fee amounts for small businesses.* EPA is finalizing reduced fee amounts for small businesses, consistent with the proposed rule and without change. EPA is, however, adjusting the small business size standard as discussed in Unit III. The reduced fee amounts are summarized in Table 7. These fee amounts represent an approximate 80% reduction compared to the base fee for each category. In one case, for TSCA section 5 notices (*i.e.,* PMNs, MCANs and SNUNs), the small business reduction is 82.5%. For all fee categories, the reduced fee is only available when the only entity or entities are small businesses, including when a consortium is paying the fee and all members of that consortium are small businesses. Consistent with the proposed rule, reduced fees are not available for small business manufacturers requesting a risk evaluation, as TSCA requires those fees to be set at a specific percentage of the actual costs of the activity.

Some commenters expressed concern regarding accommodations made to small businesses in the proposed rule. For example, a few commenters argue that reduced fees for companies with annual sales of $91 million is an undue accommodation for companies that can clearly support fees, and the discount relief was unjustified and excessive. Another commenter urged EPA to clarify and better support its proposed discount of 80%. With respect to the approximate 80% discount in the proposed rule, EPA continues to believe this is appropriate. The discount is generally in line with EPA's discount for small businesses in the pesticides program (*i.e.,* 75%), but slightly higher in line with significant stakeholder input regarding the need to minimize impacts to small businesses.

TABLE 7—FINAL TSCA FEES FOR SMALL BUSINESSES

Fee category	Small business fee
TSCA Section 4:	
Test order	$1,950.
Test rule	$5,900.
ECA	$4,600.
TSCA Section 5:	
PMN and consolidated PMN, SNUN, MCAN and consolidated MCAN.	$2,800.
LoREX, LVE, TME, Tier II exemption, TERA, Film Articles	$940.
TSCA Section 6:	
EPA-initiated risk evaluation	$270,000.
Manufacturer-requested risk evaluation on a chemical included in the Work Plan.	$1,250,000 initial payment + 50% of total actual costs.
Manufacturer-requested risk evaluation on a chemical *not* included in the Work Plan.	$2,500,000 initial payment + 100% of total actual costs.

H. Definition for ''Small Business Concerns''

EPA is also finalizing a revision to the size standard used to identify businesses that can qualify as a ''small business concern'' under TSCA for the purposes of fee collection. EPA proposed to adjust the 1988 size standard used to identify businesses that can qualify as a ''small business concern'' from a prior revenue threshold of $40 million to approximately $91 million (See Ref. 6). EPA also proposed to use average annual sales values over the three years preceding the activity, instead of just one year. Further, EPA proposed to apply this definition to all fee categories in TSCA, not just TSCA section 5 submissions.

EPA specifically requested comment on this proposal and some alternative approaches, and commenters provided a variety of views. A number of commenters expressed support for SBA's employee based definition. Other commenters suggested that EPA apply only the inflation-adjusted approach in proposal, or else risk over-identifying small business concerns. At least one commenter expressed support for the proposed revenue-based definition, arguing that an employee-based metric is antiquated. A number of commenters supported an ''either/or'' approach, where a company could choose to certify as a small business under either the EPA's proposed revenue standard or SBA's employee-based standards. One commenter suggested that EPA consider

an additional ''micro business'' category of 1–9 employees with an associated fee cap of $100.

After further consideration, review of the public comments and consultation with SBA, including the Office of Advocacy, EPA has determined to adopt an employee-based size standard modeled after SBA's standards. When establishing its size standards, SBA examines various industry characteristics such as average firm size, degree of competition within an industry, start-up costs and entry barriers, and distribution of firms by size. SBA also evaluates federal market factors including a small business's share in total industry's receipts. For more details, please see the ''SBA's Standards Methodology'' white paper, available at *www.sba.gov/size.* The SBA size standards are industry-specific mostly based on either average annual revenue or number of employees, for reference please see the SBA size standards at 13 CFR 121.202. In order for an entity to be classified as a small business for federal contracting and other small business programs, its enterprise level revenue or number of employees (including all affiliates) shall not exceed the size standard for the applicable industry. These size thresholds are determined at the 6-digit North American Industry Classification System (NAICS) levels. SBA's employee-based size thresholds range from 100 to 1,500 employees to account for differences among NAICS codes.

The Small Business Jobs Act of 2010 (Jobs Act) (Pub. L. 111–240, 124 Stat. 2504, Sept. 27, 2010) requires SBA to review every five years all size standards and make adjustments to reflect current industry and market conditions. SBA completed the first 5-year review of size standards in early 2016 and is currently performing the second 5-year review. As part of that effort, SBA plans to publish for public comments a series of proposed rules on size standards revisions in the coming years.

For the final rule, EPA has incorporated the 2017 NAICS codes and SBA's associated size thresholds most likely to apply to manufacturers and processors subject to TSCA fees, see table 700.43. For those NAICS codes not represented on the table provided in 700.43 of the final rule, the manufacturer or processor must have 500 or fewer employees to be considered as a ''small business concern'' under TSCA for the purposes of fee collection. As a general matter, the reduction in revenue collection was minimal when applying an employee-based standard versus a revenue-based standard, and EPA deferred to the expertise of SBA in relying on an employee-based standard for this rulemaking. The definition in the final rule is updated accordingly, as well as supporting materials.

EPA considered several other options offered by commenters including an ''either/or'' approach and a ''micro-business'' category. With respect to the first, EPA did not believe it was appropriate to allow small businesses to choose to certify either under a revenue-based standard, or an employee-based standard. Doing so would potentially result in a significant increase to the total number of businesses identified as small, resulting in a shortfall in EPA's overall fee revenue and the need to adjust the fee structure—either by providing small businesses with a lower discount, or by increasing fees for other businesses. Adding a ''micro-business'' category would likely create similar issues with revenue shortfalls for EPA and a need to increase fee amounts elsewhere. Further, such a standard is not currently used anywhere in the federal government, including SBA. Ultimately, EPA did not believe the TSCA fees rule was an appropriate venue to introduce a micro-business standard. As indicated in the proposed rule, EPA believes a forthcoming TSCA section 8(a) rulemaking will provide for more consideration of appropriate size standards for industries subject to TSCA and offer the public further opportunities to comment on small business size standards, and EPA is committed to considering the results of that rulemaking, as well as the experience and information gained from implementing this final rule and future rulemaking to update the TSCA fees rule for the next three-year cycle.

I. Payment of Fees and Refunds

1. *Timing.* The final rule generally requires upfront payment of fees (*i.e.,* payment due prior to reviewing a TSCA section 5 notice, within 120 days of publication of final test rule, within 120 days of issuance of a test order, within 120 days of signing an ECA, within 30 days of granting a manufacturer-requested risk evaluation, and within 120 days of publishing the final scope of a risk evaluations). However, for manufacturer-requested risk evaluations, payment will now be collected in two installments over the course of the activity.

A number of commenters encouraged EPA to allow for phased payments, particularly for TSCA section 6 activities. Some of these commenters suggested that payment at specific milestones would better hold EPA accountable and assist with business planning efforts. EPA is finalizing an actual cost approach for manufacturer-requested risk evaluations which will, in effect, allow for phased payments (*i.e.,* initial payment followed later by a final invoice).

This final rule is effective the day after publication and will apply to all submissions that are received starting October 1, 2018. Section 553(d)(3) of the Administrative Procedure Act (''APA''), 5 U.S.C. 553(d), provides that final rules shall not become effective until 30 days after publication in the **Federal Register** ''except . . . as otherwise provided by the agency for good cause.'' The purpose of this provision is to ''give affected parties a reasonable time to adjust their behavior before the final rule takes effect.'' *Omnipoint Corp.* v. *Fed. Commc'n Comm'n,* 78 F.3d 620, 630 (D.C. Cir. 1996); see also *United States* v. *Gavrilovic,* 551 F.2d 1099, 1104 (8th Cir. 1977) (quoting legislative history). Thus, in determining whether good cause exists to waive the 30-day delay, an agency should ''balance the necessity for immediate implementation against principles of fundamental fairness which require that all affected persons be afforded a reasonable amount of time to prepare for the effective date of its ruling.'' Gavrilovic, 551 F.2d at 1105. EPA has determined that there is good cause for making this final rule effective immediately because, under TSCA, as amended, EPA was directed to institute a fee collection program to ensure that the Agency has a sustainable source of funding to ensure successful implementation of TSCA as Congress intended. As is clear by the fact that Congress provided different parameters for setting fees both before October 1, 2018 (26(b)(4)(B)) and after (26(b)(4)(F)), EPA believes it was Congress' intent for EPA to be able to start assessing fees as quickly as possible after the enactment of the fee provisions and that fees would already be in place by October 1, 2018 when they would need to be updated. As required by TSCA 26(b)(4)(E), EPA consulted and met with stakeholders that were potentially subject to fees in August 2016, held and industry-specific consultation meeting and webinar in September 2016, participated in a Small Business Roundtable discussion in March 2018, and had several meetings with individual stakeholders through the development of the final rule, always stressing the urgency of collecting fees and the expected timing of collections. In addition, EPA provided public notice when including this effective date in the proposed rule, did not receive any comments on this

provision, and proposed that all submissions starting October 1 would be subject to fees regardless of when the rule becomes effective. The fee amounts being finalized have not changed from the proposal other than those for manufacturer-requested risk evaluations, which will initially incur a smaller upfront fee. For these reasons, EPA believes that reasonable notice, including opportunity for comment has been provided regarding the date when fee collections will occur and that persons subject to the fees have had reasonable time to prepare to pay the fees. Between October 1, 2018 and when the rule is effective, EPA will track submissions and then send invoices to affected companies within 30 days of the effective date. Since all submitters will be subject to the fees starting October 1, 2018, and to minimize the need for after-the-submission invoicing, EPA believes there is good cause for an effective date one day after publication. For these reasons, the agency finds that good cause exists under APA section 553(d)(3) to make finalize its proposed approach to collect fees for all submissions that are received starting October 1, 2018.

2. *Consortium formation and payment.* Additionally, EPA is extending the amount of time for manufacturers to notify EPA of their intent to form a consortium and the time to provide payment for certain TSCA section 4 and 6 activities. EPA believes this additional time will be useful for businesses to financially plan for the additional expense. Specifically, the final rule allows manufacturers subject to test orders, test rules, ECAs and EPA-initiated chemical risk evaluations time to associate with a consortium and work out fee payments within that consortium. Payment for fee categories under TSCA section 4 (*i.e.,* test orders, test rules and ECAs) is due within 120 days of certain events as described previously. For EPA-initiated risk evaluations, full payment is due within 120 days of EPA publishing the final scope of a chemical risk evaluation. The proposed rule provided 60 days for these activities. EPA believes this additional time will assist manufacturers with the process of joining a consortium, if they so choose, and decide on the partial fee payments each member of the consortium will be responsible for. Manufacturers will have ample warning that a risk evaluation is underway, well before the final scope is published in the **Federal Register**. However, for manufacturer-requested risk evaluations, EPA will still require the initial payment within 30 days of when EPA grants the request to conduct the evaluation, as indicated in the proposed rule. A manufacturer or manufacturers who make such a request have complete control of the timing of the request, and are better positioned to sort out payment and fee allocation issues related to a consortium before the request is ever sent to EPA.

3. *Applicability to ongoing activities.* As described at length in the proposed rule, EPA proposed to begin recording fee obligations starting on October 1, 2018, even if the final rule is not yet effective. EPA is codifying this approach in the final rule. Specifically, EPA intends to record actions that would trigger payment of fees per the final rule and, once the final rule is effective, send invoices to the affected parties within 30 days containing information on timing, fee amounts and other details based on this final rule.

A number of commenters requested that EPA explicitly state whether fees will apply to certain ongoing activities, such as the first 10 chemical risk evaluations and TSCA section 5 submissions under review at the time the rule is finalized. To be clear, EPA will not collect fees for events that started prior to October 1, 2018 such as the first ten risk evaluations, or any TSCA section 5 activities initiated before that date. In these cases, the fee event is already ongoing, and EPA has determined not to retroactively apply fee obligations on these manufacturers. In addition, the costs of completing these risk evaluations has been included in the overall program cost estimates for TSCA section 6 activities, and EPA expects to recover 25% of these costs through implementation of this rule.

4. *Payment method.* EPA originally proposed to accept payment of fees through two different electronic payment options: *Pay.gov* and Fedwire. However, upon further review, EPA has determined that Fedwire is not a viable option for the Agency's current financial systems. As such, the final rule will only allow electronic payment through the secure, *Pay.gov* collection portal. As indicated in the proposed rule, *Pay.gov* provides customers the ability to electronically complete forms and make payments twenty-four hours a day. Because the application is web-based, customers can access their accounts from any computer with internet access. Manufacturers (and processors, where appropriate) would be expected to create payment accounts in *Pay.gov* and use one of the electronic payment methods currently supported by *Pay.gov* (*e.g.,* Automated Clearing House debits (ACH) from bank accounts, credit card payments, debit card payments, PayPal or Dwolla). Because *Pay.gov* does not accept paper checks as payment, EPA will not accept paper checks as payment for TSCA services. Additional instructions for making payments to EPA using *Pay.gov* are found at *https://www.epa.gov/financial/additional-instructions-making-payments-epa.*

5. *Refunds.* EPA proposed to issue full and partial refunds in certain circumstance related to TSCA section 5 activities, consistent with EPA's authority under TSCA sections 5(a)(4)(B) and 26(b)(4)(G). EPA is finalizing those provisions, with some additional clarifications and corrections in light of public comments. EPA will issue full refunds for (1) PMN submissions that are determined not to be a new chemical substance, (2) MCAN submissions when the microorganism is determined not to be a new microorganism or significant new use, (3) SNUN submissions if the use is determined not to be a significant new use, (4) when the Agency fails to make a determination on a notice by the end of the applicable notice review period, unless the submitter unduly delayed the process, and (5) when the Agency fails to approve or deny an exemption with the applicable review period, unless the submitter unduly delayed the process. EPA will issue partial refunds (*i.e.,* 75% of the fee amount) if a TSCA section 5 submission is withdrawn during the first 10 business days after the beginning of the applicable review period. EPA is not able to issue refunds for the entire fee amount because work begins as soon as EPA receives and application. Due to concerns with administrative burden and potential delays in issuing refunds, EPA will not calculate and refund a unique amount for each withdrawn submission. Although EPA originally proposed to issue a full refund for certain incomplete submissions, EPA's existing regulations already provide a process and timeline for EPA and the submitter to correct the issue. EPA believes the existing approach is more efficient than immediately issuing a full refund, and requiring the submitter to provide a new, complete submission.

A number of commenters had suggestions with respect to the refund provisions in the proposed rule. Several asked EPA to clarify the circumstances under which a full refund would be granted in the event the review is not completed within the applicable review period and what was meant by ''undue delay'' by the submitter that would prevent the submitter from receiving that full refund. Relatedly, a few commenters argued that voluntary

suspensions shouldn't pause the review period.

With respect to full refunds, EPA is generally required to complete TSCA section 5 reviews within 90 days, and can unilaterally extend that period to 180 days under certain circumstances in TSCA. Consistent with longstanding practice, EPA and the submitter can, and often do, agree to suspend the review period to allow the submitter to develop new information, or to provide EPA with time to review new information. EPA has also historically allowed the submitter to amend their submission at any time during the review period. EPA intends to continue these practices. A voluntary suspension pauses the applicable review period. ''Undue delay'' by the submitter, as contemplated in the proposal, might occur if the submitter submits an amended submission or significant new information late in the review process and does not agree to suspend the review period. In such a case, EPA does not believe it should be required to issue a refund if the TSCA review period expires. As a practical matter, EPA believes that a scenario in which as EPA has authority to unilaterally extend the review period for an additional 90 days. Moreover, most submitters have appreciated the flexibility to suspend the review period, as doing so is often in their best interest.

A few commenters asked EPA to clarify the circumstances, if any, where EPA would issue refunds in the TSCA sections 4 or 6 context, such as when a manufacturer-requested risk evaluation fee exceeds the actual costs. EPA did not propose any refund provisions for TSCA sections 4 or 6 EPA-initiated risk evaluation activities. EPA does not expect to exceed actual costs for these costs given that fee amounts are set significantly below estimated costs of these activities. See Technical Background Document, (Ref. 3). For example, fees for TSCA section 4 activities are set at approximately 3.5% of the estimated costs of those activities. For both categories of fee-triggering events, EPA also believe that refunds are not appropriate based on late entrants or other timing reasons. In the context of manufacturer-requested risk evaluations, EPA is finalizing an actual cost approach, so there may be—in rare circumstances—a scenario where a manufacturer might be charged more than the cost of completing the activity and would be entitled to a refund. EPA has updated the final regulatory text to account for this possibility.

J. Multiple Parties Subject to Fee Obligations

The final rule allows joint submissions under TSCA section 5, and the formation of, and payment by, consortia for submissions under TSCA sections 4 and 6. Manufacturers who seek to jointly submit a TSCA section 5 notice would be required to remit the applicable fee for each TSCA section 5 notice submitted. Only one fee is required for each submission, regardless of the number of joint submitters for that notice. To qualify for the small business discount, each joint submitter of a TSCA section 5 notice must qualify as a small business concern as defined in this rule. Manufacturers may also form a consortium to pay TSCA user fees for section 4 and 6 activities. The consortium must notify EPA of such intent. Once established, the consortium determines how the user fee would be split among the members, and ultimately paid to EPA. In response to comments, EPA made some minor modifications to this process, and provides some additional clarification on related issues:

1. *Consortia: Timing of formation and payment.* Under the proposed rule, manufacturers would have been required to notify EPA of their intent to form a consortium within 30 days of the fee-triggering event and pay EPA within 60 days of the fee-triggering event. A significant number of commenters urged EPA to extend the time for consortia to form and pay, with suggestions of anywhere from 90 to 180 days. EPA recognizes the likelihood of challenges and complexities associated with forming consortia and managing payments. In response to public comments, EPA will extend the amount of time for consortia to notify EPA of their intent to form, as well as the payment due date, each by 30 days. Thus, manufacturers will have 60 days to notify EPA of their intent to form a consortium from the triggering event, and 120 days total from the triggering event for payment.

2. *Consortia: Complex scenarios.* EPA is providing some additional clarification on the division of costs amongst consortia and individual manufacturers for certain complex scenarios identified by commenters. The ideal scenario is that a single consortium forms and independently agrees upon allocation of payment amongst its members. In such a scenario, EPA would send a single invoice to the consortium, and receive a single payment in return. It is possible, however, for any number of more complicated scenarios to arise, such as formation of multiple consortia, or a combination of consortia and individual manufacturers not associated with the consortia. Adding discounts for small business concerns further complicates the allocation of fees in these scenarios.

Consistent with the formula in the proposed rule, in any scenario where there is not a single consortium comprised of all manufacturers subject to a single fee, EPA will take the following steps to allocate fees:

- Count the total number of manufacturers, including the number of manufacturers within any consortia.
- Divide the total fee amount by the total number of manufacturers, and allocate equally on a per capita basis to generate a base fee.
- Provide all small businesses who are either (a) not associated with a consortium, or (b) associated with an all-small business consortium with an 80% discount from the base fee referenced previously.
- Calculate the total remaining fee and total number of remaining manufacturers by subtracting out the discounted fees and the number of small businesses identified.
- Reallocate the remaining fee across those remaining individuals and groups in equal amounts, counting each manufacturer in a consortium as one person.

Small businesses in a successfully-formed consortium (other than an all-small business consortium) cannot be afforded the 80% discount by EPA. Association with consortia for purposes of jointly paying fees is a voluntary activity; EPA lacks the authority to compel consortia managers to provide small businesses with discounts. However, consortia are strongly encouraged to provide a discount for small business concerns.

For example, consider a scenario in which there is one consortium formed (with a mix of small businesses and non-small businesses), plus some additional individual small businesses and non-small businesses not associated with the consortium. There are 10 total manufacturers, with 5 in the consortium and 5 individuals (2 small businesses and 3 non-small businesses). Assume the total fee is $100,000. The base fee would be $10,000 ($100,000 divided by 10 manufacturers). The two individual small businesses (not associated with consortium) would be responsible for $2,000 each ($10,000 base fee × 0.2). That leaves $96,000 to be paid across 8 total remaining manufacturers. The consortium (5 of 8 remaining manufacturers) would responsible for 62.5% of the remaining fee or $60,000,

and they would be free to determine how to allocate that amount amongst their membership. Any small businesses within the consortium are not provided a discount by EPA. Each of the 3 individual non-small business manufacturers would be responsible for 12.5% of the remaining fee or $12,000.

3. *Consortia: Failure to reach agreement.* If a consortium is unable to reach agreement on splitting the fee, the principal sponsor must notify EPA prior to the expiration of the 60-day notification period. EPA defines the principal sponsor as a person who assumes primary responsibility for the direction of the study, the payment of fees to EPA, and for oral and written communication with EPA. This notification by the principal sponsor effectively nullifies the formation of the consortium, and each member will be treated as an individual manufacturer, and must pay their portion of the fee—as calculated by EPA—within the time period remaining. The Agency will divide the total fee by the number of manufacturers. Small businesses will be afforded an 80% discount.

4. *Consortia: Small business concerns.* EPA strongly encourages consortia to set lower fees for small business concerns; Congress generally intended small businesses to be afforded lower fee payments (TSCA section 26(b)(4)(A)). Some commenters suggested that EPA should go further in prescribing fairness in consortia dealings, including dealings with small businesses. At least one commenter suggested that an expectation that consortia would assign lower fees to small businesses is unrealistic. Another commenter suggested EPA should require consortia to give a small business discount. One commenter suggested that the proposal would result in formation of all small business consortia every time, given that small businesses would surrender their small business protections by consorting with non-small businesses. However, association with a consortium is a voluntary activity; a small business will always have the choice to not associate with a consortium and to receive the small business discount. Further, EPA does not believe it has the authority in TSCA to compel consortia managers to provide a discount to small businesses. Nevertheless, EPA strongly encourage consortia to do so.

5. *Consortia: Administrative costs and burden.* Several commenters suggested that EPA recognize administrative costs associated with consortia formation and management that companies would be expected to bear, and to set those expectations in final rule. The administrative costs of consortia management would be set by third parties and completely outside the control of EPA, and would not be appropriate for EPA to factor this into program cost estimates or otherwise reflect in the fee amounts. However, based on public comments, EPA is including some minor updates to the economic analysis to reflect this additional administrative burden and costs associated with forming consortia for the distinct purpose of submitting fee payments.

K. Enforcement

Failure to comply with any requirement of a rule promulgated under TSCA is a prohibited act under TSCA section 15 and is subject to penalties under TSCA section 16. Failure to pay the appropriate fee at the required time would subject each manufacturer and processor who is subject to the fee payment to penalties of as much as the maximum statutory amount per day ($38,114 as of January 2017) until the required fee is paid. Each person subject to fees would be subject to such penalties regardless of whether they intend to pay independently, as a joint submitter or through a consortium. Each member of a consortium, and each joint submitter, is individually responsible for payment of the fee, and subject to penalties for non-payment, until the fee is actually paid. EPA may develop enforcement response policy guidance provisions for this rule. In the meantime, EPA's Office of Enforcement will rely on TSCA section 16(a)(2)(B) and GM 21 at *https://www.epa.gov/enforcement/policy-civil-penalties-epa-general-enforcement-policy-gm-21.*

L. Compliance Date

EPA will be able to start collecting fees the day after the final TSCA user fees regulations are published in the **Federal Register**. For EPA to sufficiently address the increased workload under TSCA, the Agency must start collecting fees as soon as possible for use in defraying implementation costs. All submissions starting October 1, 2018 are subject to the fees in this rule regardless of when the rule becomes effective. For submissions received between October 1, 2018 and the effective date of the rule, EPA will invoice submitters within 30 days.

M. Conforming and Other Technical Amendments

EPA is finalizing minor changes to several of its regulations that cross-reference the part 700 fees regulations, specifically 40 CFR parts 720, 723, 725, 790 and 791. Amending the regulatory text in these parts will ensure that existing regulations appropriately reference the regulatory text being finalized today. These include minor updates for implementing the fee requirements for test marketing exemptions at § 720.38; premanufacture notification regulations at § 720.45(a)(5); instant photographic and peel-apart film articles exemptions at § 723.175; amendments to regulations covering MCANs and exemption requests at § 725.25 and § 725.33; minor amendments at § 790.45 and § 790.59; and a modification to the general provisions for data reimbursement found at § 791.39.

IV. Projected Economic Impacts

EPA has evaluated the potential costs for entities potentially subject to this final rule. More details can be found in the Economic Analysis (Ref. 2) for this rule.

For the baseline, EPA used the number of section 5 submissions received in FY 2016 for each of the types of fee-triggering section 5 categories (Ref. 7) as the estimate of the number of submissions per section 5 fee category for the next three years in the absence of the rule. As a result of the final rule, EPA expects that the number of PMNs, MCANs, and SNUNs submitted would decline by 20% from the baseline, while the number of exemptions would remain the same, on average. Test orders under section 4 are new under TSCA as amended and the average number of test orders expected per year represents an EPA estimate based on previous experience and expected work under TSCA as amended. Similarly, for the other fee categories under section 4 (test rules and ECAs), EPA also estimated the expected number of such actions per year based on previous experience and expected work under TSCA as amended. The amended TSCA regulations specify the number of risk evaluations that EPA must have ongoing over the next three years. The Agency expects to have between 20 and 30 risk evaluations ongoing in any given year at different stages in the review process, including manufacturer-requested evaluations.

EPA calculated fees by estimating the total annual costs of administering TSCA sections 4, 5, and 6 (excluding the costs of manufacturer-requested risk evaluations) and of collecting, processing, reviewing, and providing access to and protecting from disclosure as appropriate under section 14; identifying the full amount to be defrayed by fees under TSCA section 26(b) (*i.e.,* 25% of those annual costs);

and allocating that amount across the fee—triggering events in sections 4, 5, and 6, weighted more heavily toward section 6 based on early industry feedback. EPA estimates the total fee collection by multiplying the fees with the number of expected fee-triggering events under full implementation for each fee category, for a total of approximately $20 million in average annual fee revenue. This total does not include the fees collected for manufacturer-requested risk evaluations. EPA estimates that section 4 fees account for less than one percent of the total fee collection, section 5 fees for approximately 43 percent, and section 6 fees for approximately 56 percent.

Total annual fee collection for manufacturer-requested risk evaluations is estimated to be $1.3 million for chemicals included in the Work Plan (based on two requests over the three-year period) and approximately $3.9 million for chemicals not included in the Work Plan (based on three requests over the three-year period).

For small businesses, EPA estimates that 18.6 percent of section 5 submissions will be from small businesses that are eligible to pay the small business fee because they are classified as small businesses based on the SBA small business thresholds. Total annualized fee collection from small businesses submitting under section 5 is estimated to be $339,000 (Ref. 2). For sections 4 and 6, reduced fees paid by eligible small businesses and fees by paid non-small businesses may differ over the three-year period that was analyzed, since the fee paid by each entity is dependent on the number of entities identified per fee-triggering event. EPA relied on past experience with Test Rules for HPV chemicals under section 4 as well as work to date on the first ten 10 chemicals currently undergoing risk evaluation under section 6 to inform its estimates of average number of small businesses impacted per action, and estimates that average annual fee collection from small businesses impacted by section 4 and section 6 would be approximately $7,000 and $926,000, respectively. For each of the three years covered by this rule, EPA estimates that total fee revenue collected from small businesses will account for about 6 percent of the approximately $20 million total fee collection, for an annual average total of approximately $1.3 million.

This rule establishes fee requirements for affected manufacturers (including importers) and, in some cases, processors of chemical substances. The fees to be paid by industry would defray the cost for EPA to administer TSCA sections 4, 5, 6, and collecting, processing, reviewing, and providing access to and protecting information about chemical substances from disclosure as appropriate under TSCA section 14. Absent this regulation, EPA costs to administer these sections of TSCA would be borne by taxpayers through budget appropriations from general revenue. As a result of this rule, 25% of EPA costs to administer TSCA section 4, 5, 6, and collecting, processing, reviewing, and providing access to and protecting information about chemical substances from disclosure as appropriate under TSCA section 14, and activities paid from general revenue would be transferred via the fees to industry. Although these user fees may be perceived by industry as direct private costs, from an economic perspective, they are transfer payments rather than real social costs. Therefore, the total social cost of this rule does not include the fees collected from industry by EPA. Rather, it includes the opportunity costs incurred by industry, such as the cost to read and familiarize themselves with the rule; determine their eligibility for paying reduced fees; register for CDX; form, manage and notify EPA of participation in consortia; notify EPA and certify whether they will be subject to the action or not; and arrange to submit fee payments via *Pay.gov*. Total social costs also include the additional costs to EPA to administer fee assessment and collection for TSCA sections 4, 5, 6, and collecting, processing, reviewing, and providing access to and protecting information about chemical substances from disclosure as appropriate under TSCA section 14. The total annualized opportunity cost to industry is approximately $231,000 and the additional annualized Agency cost is $7,000, yielding a total annualized social cost of approximately $238,000.

V. References

The following is a listing of the documents that are specifically referenced in this document. The docket includes these documents and other information considered by EPA, including documents that are referenced within the documents that are included in the docket, even if the referenced document is not physically located in the docket. For assistance in locating these other documents, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

1. 2016. The Frank R. Lautenberg Chemical Safety for the 21st Century Act. June 22, 2016.
2. 2017. EPA. Economic Analysis for the TSCA Section 26(b) Proposed Fees Rule. December 2017.
3. 2018. EPA. Updated Technical Background Document for TSCA Fees. September 2018.
4. 2017. EPA. Interagency Agreement and Oil Indirect Cost Rates for FY 2018 and Beyond. September 28, 2017.
5. 2002. EPA. 67 FR 76282. Sustainable Futures—Voluntary Pilot Project Under the TSCA New Chemicals Program.
6. 2016. Abt Associates. Memorandum: Inflation of Small Business Definition under section 5 of TSCA. August 31, 2016.
7. 1987. EPA. Proposed Fees for Processing Premanufacture Notices, Exemption Applications and Notices, and Significant New Use Notices. 42 FR 12940.
8. 2017. EPA. Information Collection Request for the TSCA Section 26(b) Proposed Reporting Requirements Associated with the Payment of TSCA Fees (EPA ICR No. 2569.01; OMB Control No. 2070–[NEW]). December 2017.
9. 2018. EPA. TSCA Fee Reporting Notice. September 2018.

VI. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *https://www.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is a significant regulatory action that was submitted to the Office of Management and Budget (OMB) for review under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011). Any changes made in response to OMB recommendations have been documented in the docket for this action as required by section 6(a)(3)(E) of Executive Order 12866. EPA prepared an economic analysis of the potential costs and benefits associated with this action (Ref. 2), which is available in the docket and discussed in Unit IV.

B. Executive Order 13771: Reducing Regulation and Controlling Regulatory Costs

This action is subject to the requirements for regulatory actions specified in Executive Order 13771 (82 FR 9339, February 3, 2017). Details on the estimated costs of this rule can be found in EPA's analysis (Ref. 2) of the potential costs and benefits associated with this action, which is available in the docket and is summarized in Unit IV.

C. Paperwork Reduction Act (PRA)

The information collection requirements in this final rule have been submitted to OMB for review and approval under the PRA, 44 U.S.C. 3501 *et seq.* The Information Collection Request (ICR) prepared by EPA has been assigned EPA ICR No. 2569.01 and OMB Control No. 2070–0208. You can find a copy of the ICR in the docket (Ref. 8), and it is briefly summarized here.

The information collection activities associated with the rule include familiarization with the regulation; reduced fee eligibility determination; CDX registration; formation, management and notification to EPA of participation in consortia; self-identification and certification; and electronic payment of fees through *Pay.gov*.

Respondents/affected entities: Persons who manufacture, distribute in commerce, use, dispose, process a chemical substance (or any combination of such activities) and are required to submit information to EPA under TSCA sections 4 or 5, or manufacture or process a chemical substance that is the subject of a risk evaluation under TSCA section 6(b).

Respondent's obligation to respond: Mandatory.

Estimated number of respondents: 1,418 respondents.

Frequency of response: On occasion to EPA as needed.

Total estimated burden: 539 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $230,607 (per year), includes $0 annualized capital or operation and maintenance costs.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The OMB control numbers for certain EPA regulations are listed in 40 CFR part 9.

D. Regulatory Flexibility Act (RFA)

Pursuant to section 605(b) of the RFA, 5 U.S.C. 601 *et seq.,* I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. The small entities expected to be subject to the requirements of this action are small chemical manufacturers and processors, small petroleum refineries, and small chemical and petroleum wholesalers. There may be some potentially affected firms within other sectors, but not all firms within those sectors will be potentially affected firms.

EPA has determined that 84 small businesses may be affected annually by section 4 actions; 190 small businesses may be affected by section 5 actions; and 24 small businesses may be affected by section 6 actions. For section 5 actions, the total discounted annual fee collections and opportunity cost for the affected small businesses is expected to be about $344,000. For section 4 and section 6 actions, total discounted annual fee collections and opportunity cost for the affected small business is expected to be about $14,000 and $927,000 respectively. In total, the annual fee collections and opportunity costs for the 298 affected small businesses is expected to be about $1.3 million.

As a result, EPA estimates that, of the 298 small businesses paying fees every year, all may have annual cost-revenue impacts less than 1%. EPA estimates the median annual sales for small businesses likely to be affected by TSCA section 4 and TSCA section 6 actions to be approximately $5,445,000; and $3,475,000 for small businesses likely to be affected by TSCA section 5 actions. The average annual cost per affected small business is expected to be about $170 for section 4; $1,800 for section 5, and $38,600 for section 6.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. As such, the requirements of sections 202, 203, 204, or 205 of UMRA, 2 U.S.C. 1531–1538, do not apply to this action.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999).

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications because it will not have any effect on tribal governments, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000).

H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997), as applying only to those regulatory actions that concern environmental health or safety risks that EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of Executive Order 13045. This action is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate environmental health risks or safety risks.

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not a ''significant energy action'' as defined in Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not likely to have a significant adverse effect on energy supply, distribution, or use. This action would establish service fees for TSCA, which will not have a significant effect on the supply, distribution or use of energy.

J. National Technology Transfer and Advancement Act (NTTAA)

Since this action does not involve any technical standards, NTTAA section 12(d) (15 U.S.C. 272 note) does not apply to this action.

K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

This action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). This action does not affect the level of protection provided to human health or the environment.

The fees collected under this rule will assist the Agency in carrying out various requirements under TSCA, including conducting risk evaluations, requiring testing of chemical substances and mixtures, and evaluating and reviewing new chemical submissions, as required under TSCA sections 4, 5, and 6.

Although not directly impacting environmental justice-related concerns, the fees will enable the Agency to better protect human health and the environment, including in low-income and minority communities.

L. Congressional Review Act (CRA)

This action is subject to the CRA, 5 U.S.C. 801 *et seq.,* and EPA will submit a rule report to the U.S. Senate, and the U.S. House of Representatives, and the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects

40 CFR Part 700

Chemicals, Environmental protection, Hazardous substances, Reporting and recordkeeping requirements, User fees.

40 CFR Part 720

Chemicals, Environmental protection, Hazardous substances, Imports, Reporting and recordkeeping requirements.

40 CFR Part 723

Chemicals, Environmental protection, Hazardous substances, Phosphate, Reporting and recordkeeping requirements.

40 CFR Part 725

Administrative practice and procedure, Chemicals, Environmental protection, Hazardous substances, Imports, Labeling, Occupational safety and health, Reporting and recordkeeping requirements.

40 CFR Part 790

Administrative practice and procedure, Chemicals, Confidential business information, Environmental protection, Hazardous substances, Reporting and recordkeeping requirements.

40 CFR Part 791

Administrative practice and procedure, Chemicals, Environmental protection, Hazardous substances, Reporting and recordkeeping requirements.

Dated: September 27, 2018.

Andrew R. Wheeler,

Acting Administrator.

Therefore, 40 CFR chapter I, subchapter R, is amended as follows:

PART 700—[AMENDED]

■ 1. The authority citation for part 700 is revised to read as follows:

Authority: 15 U.S.C. 2625 and 2665, 44 U.S.C. 3504.

■ 2. Section 700.40 is revised to read as follows:

§ 700.40 Purpose and applicability.

(a) *Purpose.* The purpose of this subpart is to establish and collect fees from manufacturers and processors to defray part of EPA's cost of administering the Toxic Substances Control Act (15 U.S.C. 2601–2692), as amended by the Frank R. Lautenberg Chemical Safety for the 21st Century Act (Pub. L. 114–182).

(b) *Applicability.* This subpart applies to all manufacturers who are required to submit information under section 4 of the Act, who submit certain notices and exemption requests to EPA under section 5 of the Act, who manufacture a chemical substance that is subject to a risk evaluation under TSCA section 6(b)(4) of the Act, and who process a chemical substance that is the subject of a Significant New Use Notice (SNUN) or Test Market Exemption (TME) under section 5 of the Act and who are required to submit information under section 4 of the Act related to a SNUN submission.

(c) *Effective date.* After October 18, 2018, all persons specified in § 700.45 and paragraph (a) of this section must comply with this subpart.

■ 3. Section 700.43 is amended by:
■ a. Revising the section heading;
■ b. Revising the introductory text;
■ c. Adding in alphabetical order definitions for ''Consortium'', ''Enforceable consent agreement'', and ''EPA-initiated risk evaluation'';
■ d. Removing the definitions of ''Exemption application'' and ''Intermediate premanufacture notice'';
■ e. Revising the definition of ''Joint submitters'';
■ f. Adding in alphabetical order a definition for ''Manufacturer-requested risk evaluation'';
■ g. Revising the definition of ''Person'';
■ h. Adding in alphabetical order definitions for ''Principal sponsor'' and ''Risk evaluation'';
■ i. Revising the definitions of ''Significant new use notice'' and ''Small business concern''; and
■ k. Adding in alphabetical order definitions for ''Test order'' and ''Test rule''.

The revisions and additions read as follows:

§ 700.43 Definitions applicable to this subpart.

Definitions in section 3 of the Act (15 U.S.C. 2602), as well as definitions contained in §§ 704.3, 720.3, 723.175(b), 725.3, and 790.3 of this chapter, apply to this subpart unless otherwise specified in this section. In addition, the following definitions apply:

* * * * *

Consortium means an association of manufacturers and/or processors who have made an agreement to jointly split the cost of applicable fees.

* * * * *

Enforceable consent agreement means a consent agreement used by EPA to accomplish testing where a consensus exists among EPA and interested parties (as identified in § 790.22(b)(2)) concerning the need for and scope of testing under section 4 of the Act.

EPA-initiated risk evaluation means any risk evaluation conducted pursuant to section 6(b)(4)(C)(i) of the Act.

* * * * *

Joint submitters mean two or more persons who submit a TSCA section 5 notice together.

Manufacturer-requested risk evaluation means any chemical substance risk evaluation conducted at the request of one or more manufacturers of that chemical substance pursuant to section 6(b)(4)(C)(ii) of the Act.

* * * * *

Person means a manufacturer or processor.

* * * * *

Principal sponsor means a person who assumes primary responsibility for the direction of study, the payment of fees to EPA, and for oral and written communication with EPA.

Risk evaluation means any risk evaluation conducted pursuant to section 6(b) of the Act.

* * * * *

Significant new use notice or *SNUN* means any notice submitted to EPA pursuant to section 5(a)(1)(B) of the Act in accordance with part 721 of this chapter.

Small business concern means a manufacturer or processor who meets the size standards identified in the following table. The number of employees indicates the maximum allowed for a manufacturer or processor to be considered small. If the North American Industry Classification System (NAICS) code of a manufacturer or processor is not represented in the table, it will be considered small if it has 500 or fewer employees. When calculating the number of employees, a manufacturer or processor must include the employees of all of its ''parent companies'' (if any) and all companies it ''owns or controls,'' as defined by 40 CFR 704.3. The number of employees are calculated as the average number of people employed for each pay period of

the business' latest 12 calendar months, regardless of hours worked or temporary status.

Potentially affected NAICS	NAICS description	Small business concern size standards (number of employees)
324110	Petroleum Refineries	1,500 or fewer.
325110	Petrochemical Manufacturing	1,000 or fewer.
325120	Industrial Gas Manufacturing	1,000 or fewer.
325130	Synthetic Dye and Pigment Manufacturing	1,000 or fewer.
325180	Other Basic Inorganic Chemical Manufacturing	1,000 or fewer.
325193	Ethyl Alcohol Manufacturing	1,000 or fewer.
325194	Cyclic Crude, Intermediate, and Gum and Wood Chemical Manufacturing	1,250 or fewer.
325199	All Other Basic Organic Chemical Manufacturing	1,250 or fewer.
325211	Plastics Material and Resin Manufacturing	1,250 or fewer.
325212	Synthetic Rubber Manufacturing	1,000 or fewer.
325220	Artificial and Synthetic Fibers and Filaments Manufacturing	1,000 or fewer.
325311	Nitrogenous Fertilizer Manufacturing	1,000 or fewer.
325312	Phosphatic Fertilizer Manufacturing	750 or fewer.
325314	Fertilizer (Mixing Only) Manufacturing	500 or fewer.
325320	Pesticide and Other Agricultural Chemical Manufacturing	1,000 or fewer.
325411	Medicinal and Botanical Manufacturing	1,000 or fewer.
325412	Pharmaceutical Preparation Manufacturing	1,250 or fewer.
325413	InVitro Diagnostic Substance Manufacturing	1,250 or fewer.
325414	Biological Product (except Diagnostic) Manufacturing	1,250 or fewer.
325510	Paint and Coating Manufacturing	1,000 or fewer.
325520	Adhesive Manufacturing	500 or fewer.
325611	Soap and Other Detergent Manufacturing	1,000 or fewer.
325612	Polish and Other Sanitation Good Manufacturing	750 or fewer.
325613	Surface Active Agent Manufacturing	750 or fewer.
325620	Toilet Preparation Manufacturing	1,250 or fewer.
325910	Printing Ink Manufacturing	500 or fewer.
325920	Explosives Manufacturing	750 or fewer.
325991	Custom Compounding of Purchased Resins	500 or fewer.
325992	Photographic Film, Paper, Plate and Chemical Manufacturing	1,500 or fewer.
325998	All Other Miscellaneous Chemical Product and Preparation Manufacturing	500 or fewer.
424690	Other Chemical and Allied Products Merchant Wholesalers	150 or fewer.
424710	Petroleum Bulk Stations and Terminals	200 or fewer.
424720	Petroleum and Petroleum Products Merchant Wholesalers (except Bulk Stations and Terminals).	200 or fewer.

Test order means an order to develop information pursuant to section 4(a) of the Act.

Test rule refers to a regulation requiring the development of information pursuant to section 4(a) of the Act.

■ 4. Section 700.45 is revised to read as follows:

§ 700.45 Fee payments.

(a) *Persons who must pay fees.* (1) Manufacturers submitting a TSCA section 5 notice to EPA shall remit for each such notice the applicable fee identified in paragraph (c) of this section in accordance with the procedures in paragraphs (f) and (g) of this section.

(2) Manufacturers of chemical substances and mixtures required to test these chemical substance and mixtures under a TSCA section 4(a) test rule, test order, or enforceable consent agreement shall remit for each such test rule, order, or enforceable consent agreement the applicable fee identified in paragraph (c) of this section in accordance with the procedures in paragraphs (f) and (g) of this section.

(3) Manufacturers of a chemical substance that is subject to a risk evaluation under section 6(b) of the Act, shall remit for each such chemical risk evaluation the applicable fee identified in paragraph (c) of this section in accordance with the procedures in paragraphs (f) and (g) of this section.

(4) Processors submitting a SNUN or TME under TSCA section 5 to EPA shall remit for each such notice the applicable fee identified in paragraph (c) of this section in accordance with the procedures in paragraphs (f) and (g) of this section.

(5) Processors of chemical substances and mixtures subject to a TSCA section 4(a) test rule, test order, or enforceable consent agreement in association with a SNUN submission referenced in paragraph (a)(4) of this section shall remit for each such test rule, order, or enforceable consent agreement the applicable fee identified in paragraph (c) of this section in accordance with the procedures in paragraphs (f) and (g) of this section.

(b) *Identifying manufacturers subject to fees*—(1) *In general.* For purposes of identifying manufacturers subject to fees for section 4 test rules and section 6 EPA-initiated risk evaluations, EPA will publish a preliminary list of manufacturers identified through a review of data sources described in paragraph (b)(2) of this subsection; provide an opportunity for public comment; and publish a final list specifying the manufacturers responsible for payment.

(2) *Data sources.* To compile the preliminary list, EPA will rely on information submitted to the Agency (such as the information submitted under sections 5(a), 8(a), 8(b), and to the Toxics Release Inventory) as well as other information available to the Agency, including publicly available information or information submitted to other agencies to which EPA has access. To be able to include the most recent CDR data and to account for annual or other typical fluctuations in manufacturing, EPA will use the five most recent years of data submitted or

available to the Agency to develop the preliminary list.

(3) *Publication of preliminary list.* (i) For risk evaluations initiated by EPA under section 6, the preliminary list will be published at the time of final designation of the chemical substance as a High-Priority Substance.

(ii) For test rules under section 4, the preliminary list will be published with the proposed test rule.

(4) *Public comment period.* Following publication of the preliminary list, EPA will provide a period of public comment that is no less than 30 days.

(5) *Self-identification.* All manufacturers who have manufactured or imported the chemical substance in the previous five years, must submit notice to EPA, irrespective of whether they are included in the preliminary list specified in paragraph (b)(3) of this section. The notice must be submitted electronically via EPA's Central Data Exchange (CDX), the Agency's electronic reporting portal, using the Chemical Information Submission System (CISS) reporting tool, and must contain the following information:

(i) *Contact information.* The name and address of the submitting company, the name and address of the authorized official for the submitting company, and the name and telephone number of a person who will serve as technical contact for the submitting company and who will be able to answer questions about the information submitted by the company to EPA.

(ii) *Certification of cessation.* If a manufacturer has manufactured in the five-year period preceding publication of the preliminary list, but has ceased manufacturer prior to the certification cutoff dates identified in paragraph (b)(6) of this section and will not manufacture the substance again in the successive five years, the manufacturer may submit a certification statement attesting to these facts. If EPA receives such a certification statement from a manufacturer, the manufacturer will not be obligated to pay the fee under this section.

(iii) *Certification of no manufacture.* If a manufacturer is identified on the preliminary list, but has not manufactured the chemical in the five-year period preceding publication of the preliminary list, the manufacturer may submit a certification statement attesting to these facts. If EPA receives such a certification statement from a manufacturer, the manufacturer will not be obligated to pay the fee under this section.

(6) *Certification cutoff date.* (i) For a section 6 EPA-initiated risk evaluation, the cutoff date for purposes of paragraph (b)(5)(ii) of this section is the day prior to initiation of the prioritization process for the applicable chemical substance.

(ii) For a section 4 test rule, the cutoff date for purposes of paragraph (b)(5)(ii) of this section is the day prior to publication of the proposed test rule for the applicable chemical substance.

(7) *Publication of final list.* EPA expects to publish a final list of manufacturers to identify the specific manufacturers subject to the applicable fee. This list will indicate if additional manufacturers self-identified pursuant to paragraph (b)(5) of this section, if other manufacturers were identified through credible public comment, and if manufacturers submitted certification of cessation or no manufacture pursuant to paragraph (b)(5)(ii) or (iii). The final list will be published no later than concurrently with the final scope document for risk evaluations initiated by EPA under section 6, and with the final test rule for test rules under section 4.

(8) *Effect of final list.* Manufacturers who are listed on the final list are subject to the applicable fee identified in paragraph (c) of this section.

(9) *Identifying manufacturers for other fee categories.* For Section 4 Test Orders and enforceable consent agreements, and Section 6 Manufacturer-Requested Risk Evaluations, EPA will not conduct the identification process described in paragraphs (b)(1) through (8) of this section, as manufacturers self-identify through a submission or are already otherwise known to Agency. However, those manufacturers are required to provide an information submission to EPA for the purposes of fee administration. The notice must be submitted electronically via the Agency's electronic reporting software (*e.g.,* Central Data Exchange (CDX)) and must contain the manufacturers: Full name, address, telephone number and email address. Timing of this submission must be as follows:

(i) For section 4 test orders and enforceable consent agreements, the informational submission in this paragraph (b)(9) must be provided within 30 days following notification from EPA.

(ii) For section 6 manufacturer-requested risk evaluations, the informational submission in this paragraph (b)(9) is required as part of the procedural process for making such requests, and must be completed at the time of making the request.

(c) *Fees for the 2019, 2020 and 2021 fiscal years.* Persons shall remit fee payments to EPA as follows:

(1) *Small business concerns.* Small business concerns shall remit fees as follows:

(i) *Premanufacture notice and consolidated premanufacture notice.* Persons shall remit a fee totaling $2,800 for each premanufacture notice (PMN) or consolidated (PMN) submitted in accordance with part 720 of this chapter.

(ii) *Significant new use notice.* Persons shall remit a fee totaling $2,800 for each significant new use notice (SNUN) submitted in accordance with part 721 of this chapter.

(iii) *Exemption application.* Persons shall remit a fee totaling $940 for each of the following exemption requests submitted under section 5 of the Act:

(A) *Low releases and low exposures exemption* or *LoREX* request submitted to EPA pursuant to section 5(a)(1) of the Act in accordance with § 723.50(a)(1)(ii) of this chapter.

(B) *Low volume exemption* or *LVE* request submitted to EPA pursuant to section 5(a)(1) of the Act in accordance with § 723.50(a)(1)(i) of this chapter.

(C) *Test marketing exemption* or *TME* application submitted to EPA pursuant to section 5 of the Act in accordance with §§ 725.300 through 725.355 of this chapter.

(D) *TSCA experimental release application* or *TERA* application submitted to EPA pursuant to section 5 of the Act for research and development activities involving microorganisms in accordance with §§ 725.200 through 725.260 of this chapter.

(E) *Tier II exemption* application submitted to EPA pursuant to section 5 of the Act in accordance with §§ 725.428 through 725.455 of this chapter.

(iv) *Instant photographic film article exemption notice.* Persons shall remit a fee totaling $940 for each instant photographic film article exemption notice submitted in accordance with § 723.175 of this chapter.

(v) *Microbial commercial activity notice* and *consolidated microbial commercial activity notice.* Persons shall remit a fee totaling $2,800 for each microbial commercial activity notice (MCAN) or consolidated MCAN submitted in accordance with §§ 725.25 through 725.36 of this chapter.

(vi) Persons shall remit a total of twenty percent of the applicable fee under paragraph (c)(2)(vi), (vii) or (viii) of this section for a test rule, test order, or enforceable consent agreement.

(vii) Persons shall remit a total fee of twenty percent of the applicable fee under paragraphs (c)(2)(ix) of this section for an EPA-initiated risk evaluation.

(viii) Persons shall remit the total fee under paragraph (c)(2)(x) or (xi) of this section, as applicable, for a manufacturer-requested risk evaluation.

(2) *Others.* Persons other than small business concerns shall remit fees as follows:

(i) *PMN* and *consolidated PMN.* Persons shall remit a fee totaling $16,000 for each PMN or consolidated PMN submitted in accordance with part 720 of this chapter.

(ii) *SNUN.* Persons shall remit a fee totaling $16,000 for each significant new use notice submitted in accordance with part 721 of this chapter.

(iii) *Exemption applications.* Persons shall remit a fee totaling $4,700 for each of the following exemption requests, and modifications to previous exemption requests, submitted under section 5 of the Act:

(A) *Low releases and low exposures exemption* or *LoREX* request submitted to EPA pursuant to section 5(a)(1) of the Act in accordance with § 723.50(a)(1)(ii) of this chapter.

(B) *Low volume exemption* or *LVE* request submitted to EPA pursuant to section 5(a)(1) of the Act in accordance with § 723.50(a)(1)(i) of this chapter.

(C) *Test marketing exemption* or *TME* application submitted to EPA pursuant to section 5 of the Act in accordance with §§ 725.300 through 725.355 of this chapter, unless the submitting company has graduated from EPA's Sustainable Futures program, in which case this exemption fee is waived.

(D) *TSCA experimental release application* or *TERA* application submitted to EPA pursuant to section 5 of the Act for research and development activities involving microorganisms in accordance with §§ 725.200 through 725.260 of this chapter.

(E) *Tier II exemption* application submitted to EPA pursuant to section 5 of the Act in accordance with §§ 725.428 through 725.455 of this chapter.

(iv) *Instant photographic film article exemption notice.* Persons shall remit a fee totaling $4,700 for each exemption notice submitted in accordance with § 723.175 of this chapter.

(v) *MCAN and consolidated MCAN.* Persons shall remit a fee totaling $16,000 for each MCAN or consolidated MCAN submitted in accordance with §§ 725.25 through 725.36 of this chapter.

(vi) *Test rule.* Persons shall remit a fee totaling $9,800 for each test rule.

(vii) *Test order.* Persons shall remit a fee totaling $29,500 for each test order.

(viii) *Enforceable consent agreement.* Persons shall remit a fee totaling $22,800 for each enforceable consent agreement.

(ix) *EPA-initiated chemical risk evaluation.* Persons shall remit a fee totaling $1,350,000.

(x) *Manufacturer-requested risk evaluation of a Work Plan Chemical.* Persons shall remit an initial fee of $1,250,000, and final payment to total 50% of the actual costs of this activity, in accordance with the procedures in paragraph (g) of this section. The final payment amount will be determined by EPA, and invoice issued to the requesting manufacturer.

(xi) *Manufacturer-requested risk evaluation of a non-work plan chemical.* Persons shall remit an initial fee of $2,500,000, and final payment to total 100% of the actual costs of the activity, in accordance with the procedures in paragraph (g) of this section. The final payment amount will be determined by EPA, and invoice issued to the requesting manufacturer.

(d) *Fees for 2022 fiscal year and beyond.* (1) Fees for the 2022 and later fiscal years will be adjusted on a three-year cycle by multiplying the fees in paragraph (c) of this section by the current PPI index value with a base year of 2019 using the following formula:

$$FA = F \times I$$

Where:

FA = the inflation-adjusted future year fee amount.

F = the fee specified in paragraph (c) of this section.

I = Producer Price Index for Chemicals and Allied Products inflation value with 2019 as a base year.

(2) Updated fee amounts for PMNs, SNUNs, MCANs, exemption applications and manufacturer-requested chemical risk evaluation requests apply to submissions received by the Agency on or after October 1 of every three-year fee adjustment cycle beginning in fiscal year 2022 (October 1, 2021). Updated fee amounts also apply to test rules, test orders, enforceable consent agreements and EPA-initiated chemical evaluations that are ''noticed'' on or after October 1 of every three-year fee adjustment cycle, beginning in fiscal 2022.

(3) The Agency will initiate public consultation through notice-and-comment rulemaking prior to making fee adjustments beyond inflation. If it is determined that no additional adjustment is necessary beyond for inflation, EPA will provide public notice of the inflation-adjusted fee amounts most likely through posting to the Agency's web page by the beginning of each three-year fee adjustment cycle (*i.e.,* October 1, 2021, October 1, 2024, etc.). If the Agency determines that adjustments beyond inflation are necessary, EPA will provide public notice of that determination and the process to be followed to make those adjustments.

(e) *No fee required.* Persons are exempt from remitting any fee for Tier I exemption submissions under § 725.424 and polymer exemption reports submitted under § 723.250 of this chapter.

(f) *Multiple parties, including joint submitters and consortia.* (1) Joint submitters of a TSCA section 5 notice are required to remit the applicable fee identified in paragraph (c) of this section for each section 5 notice submitted. Only one fee is required for each submission, regardless of the number of joint submitters for that notice. To qualify for the fee identified in paragraph (c)(1) of this section, each joint submitter of a TSCA section 5 notice must qualify as a small business concern under § 700.43 of this chapter.

(2) Any consortium formed to split the cost of the applicable fee under section 4 of the Act is required to remit the appropriate fee identified in paragraph (c) of this section for each test rule, test order, or enforceable consent agreement regardless of the number of manufacturers and/or processors in that consortium. For the consortium to qualify for the fee identified in paragraph (c)(1) of this section, each person in the consortium must qualify as a small business concern under § 700.43 of this chapter. Failure to submit fee payment pursuant to this paragraph, or to provide notice of failure to reach agreement pursuant to paragraph (f)(2)(v) of this section constitutes a violation by each consortium member.

(i) The consortium must identify a principal sponsor and provide notification to EPA that a consortium has formed. The notification must be accomplished within 60 days of the publication date of a test rule under section 4 of the Act, or within 60 days of the issuance of a test order under Section 4 of the Act, or within 60 days of the signing of an enforceable consent agreement under section 4 of the Act. EPA may permit additional entities to join an existing consortium prior to the expiration of the notification period if the principal sponsor provides updated notification.

(ii) Notification must be submitted electronically via the Agency's electronic reporting software—Central Data Exchange (CDX)—and include the following information:

(A) Full name, address, telephone number and signature of principal sponsor;

(B) Name(s) and contact information for each manufacturer and/or processor associating with the consortium.

(iii) It is up to the consortium to determine how fees will be split among the persons in the consortium.

(iv) Consortia are strongly encouraged to set lower fees for small business concerns participating in the consortium.

(v) If a consortium is unable to come to terms on how fees will be split among the persons in the consortium, the principal sponsor must notify EPA in writing before the end of the notification period in paragraph (f)(2)(i) of this section.

(vi) If a consortium provides notice to EPA under paragraph (f)(2)(v) of this section that they failed to reach agreement on payment, EPA will assess fees to all persons as individuals described under paragraph (f)(4) of this section.

(3) Any consortium formed to split the cost of the applicable fee supporting a risk evaluation under section 6(b) of the Act is required to remit the appropriate fee identified in paragraph (c) of this section for each risk evaluation, regardless of the number of manufacturers in that consortium. For the consortium to qualify for the fee identified in paragraph (c)(1)(vii) of this section, each person in the consortium must qualify as a small business concern under § 700.43 of this chapter. Failure to provide notice or submit fee payment pursuant to this paragraph (f)(3) constitutes a violation by each consortium member.

(i) Notification must be provided to EPA that a consortium has formed. The notification must be accomplished within 60 days of the publication of the final scope of a chemical risk evaluation under section 6(b)(4)(D) of the Act or within 60 days of EPA providing notification to a manufacturer that a manufacturer-requested risk evaluation has been granted.

(ii) Notification must be submitted electronically via the Agency's electronic reporting software—Central Data Exchange (CDX)—and include the following information:

(A) Full name, address, telephone number and signature of principal sponsor;

(B) Name(s) and contact information for each manufacturer and/or processor associating with the consortium.

(iii) It is up to the consortium to determine how fees will be split among the persons in the consortium.

(iv) Consortia are strongly encouraged to set lower fees for small business concerns participating in the consortium.

(v) If a consortium is unable to come to terms on how fees will be split among the persons in the consortium, the principal sponsor must notify EPA in writing before the end of the notification period in paragraph (f)(3)(i) of this section.

(vi) If a consortium provides notice to EPA under paragraph (f)(3)(v) of this section that they failed to reach agreement on payment, EPA will assess fees to all persons as individuals as described under paragraph (f)(4) of this section.

(4) If multiple persons are subject to fees triggered by section 4 or 6(b) of the Act and no consortium is formed, EPA will determine the portion of the total applicable fee to be remitted by each person subject to the requirement. Each person's share of the applicable fee specified in paragraph (c) of this section shall be in proportion to the total number of manufacturers and/or processors of the chemical substance, with lower fees for small businesses:

$$P_s = 0.2 \times \left[\frac{F}{M_t}\right]$$

$$P_o = \frac{F - \left\{0.2 \times \left[\frac{F}{M_t}\right] \times M_s\right\}}{(M_t - M_s)}$$

Where:

P_s = the portion of the fee under paragraph (c) of this section that is owed by a person who qualifies as a small business concern under § 700.43 of this chapter.

P_o = the portion of the fee owed by a person other than a small business concern.

F = the total fee required under paragraph (c) of this section.

M_t = the total number of persons subject to the fee requirement.

M_s = the number of persons subject to the fee requirement who qualify as a small business concern.

(5) If multiple persons are subject to fees triggered by section 4 or 6(b) of the Act and some inform EPA of their intent to form a consortium while others choose not to associate with the consortium, EPA will take the following steps to allocate fee amounts:

(i) Count the total number of manufacturers, including the number of manufacturers within any consortia; divide the total fee amount by the total number of manufacturers; and allocate equally on a per capita basis to generate a base fee.

(ii) Provide all small businesses who are either not associated with a consortium, or associated with an all-small business consortium with an 80% discount from the base fee referenced previously.

(iii) Calculate the total remaining fee and total number of remaining manufacturers by subtracting out the discounted fees and the number of small businesses identified;

(iv) Reallocate the remaining fee across those remaining individuals and groups in equal amounts, counting each manufacturer in a consortium as one person; and

(v) Inform consortia and individuals of their requisite fee amount.

Small businesses in a successfully-formed consortium, other than a consortium of all small businesses will not be afforded the 80% discount by EPA, but consortia managers are strongly encouraged to provide a discount for small business concerns.

(g) *Remittance procedure.* (1) *Electronic payment.* Each remittance under this section shall be paid electronically in U.S. dollars, using one of the electronic payment methods supported by the Department of the Treasury's *Pay.gov* online electronic payment service, or any applicable additional or successor online electronic

payment service offered by the Department of Treasury.

(2) *Fees incurred prior to* October 18, 2018. Timing of payment for fees incurred between October 1, 2018 and October 18, 2018. Fees required by paragraph (c) of this section for which the fee-triggering action or event occurred between October 1, 2018, and October 18, 2018 shall be paid in response to invoices EPA will send within 30 days of October 18, 2018.

(3) *Fees incurred after* October 18, 2018. Timing of payment for fees incurred after October 18, 2018. Fees required by paragraph (c) of this section for which the fee-triggering action or event occurred after October 18, 2018 shall be paid at the following time:

(i) *Test orders and test rules.* The applicable fee specified in paragraph (c) of this section shall be paid in full not later than 120 days after the effective date of a test rule or test order under section 4 of the Act.

(ii) *Enforceable consent agreements.* The applicable fee specified in paragraph (c) of this section shall be paid in full not later than 120 days after the signing of an enforceable consent agreement under section 4 of the Act.

(iii) *Section 5 notice.* The applicable fee specified in paragraph (c) of this section shall be paid in full immediately upon submission of a TSCA section 5 notice.

(iv) *Risk evaluations.* (A) For EPA-initiated risk evaluations, the applicable fee specified in paragraph (c) of this section shall be paid in full not later than 120 days after EPA publishes the final scope of a chemical risk evaluation under section 6(b)(4)(D) of the Act.

(B) For manufacturer-requested risk evaluations under section 6(b)(4)(C)(ii) of the Act, the applicable fees specified in paragraph (c) of this section shall be paid as follows:

(*1*) The first payment towards the applicable fee specified in paragraph (c) of this section shall be paid in full not later than 30 days after EPA provides the submitting manufacture(s) notice that it has granted the request.

(*2*) The final payment towards the applicable fee specific in paragraph (c) of this section shall be paid in full not later than 30 days after EPA publishes a final risk evaluation in the **Federal Register**.

(4) *Payment identity.* (i) Persons who submit a TSCA section 5 notice shall place an identifying number and a payment identity number on the front page of each TSCA section 5 notice submitted. The identifying number must include the letters ''TS'' followed by a combination of 6 numbers (letters may be substituted for some numbers). The payment identity number may be a ''*Pay.gov*'' transaction number used to transmit the fee. The same TS number and the submitter's name must appear on the corresponding fee remittance under this section. If a remittance applies to more than one TSCA section 5 notice, the person shall include the name of the submitter and a new TS number for each TSCA section 5 notice to which the remittance applies, and the amount of the remittance that applies to each notice.

(ii) Persons who are required to submit a letter of intent to conduct testing per § 790.45 of this chapter shall place a payment identity number on the front page of each letter submitted. The identifying number must include the letters ''TS'' followed by a combination of 6 numbers (letters may be substituted for some numbers). The payment identity number may be a ''*Pay.gov*'' transaction number used to transmit the fee. The same TS number and the submitter's name must appear on the corresponding fee remittance under this section. If a remittance applies to more than one letter of intent to conduct testing, the person shall include the name of the submitter and a new TS number for each letter of intent to conduct testing to which the remittance applies, and the amount of the remittance that applies to each letter of intent.

(iii) Persons who sign an enforceable consent agreement per § 790.60 of this chapter shall place a payment identity number within the contents of the signed agreement. The identifying number must include the letters ''TS'' followed by a combination of 6 numbers (letters may be substituted for some numbers). The payment identity number may be a ''*Pay.gov*'' transaction number used to transmit the fee. The same TS number and the submitter's name must appear on the corresponding fee remittance under this section. If a remittance applies to more than one enforceable consent agreement, the party or parties shall include the name of the submitter(s) and a new TS number for each enforceable consent agreement to which the remittance applies, and the amount of the remittance that applies to each enforceable consent agreement.

(5) *Small business certification.* (i) Each person who remits the fee identified in paragraph (c)(1) of this section for a PMN, consolidated PMN, or SNUN shall insert a check mark for the statement, ''The company named in part 1, section A is a small business concern under 40 CFR 700.43 and has remitted a fee of $2,800 in accordance with 40 CFR 700.45(c).'' under ''CERTIFICATION'' on page 2 of the Premanufacture Notice for New Chemical Substances (EPA Form 7710–25). This form is available on EPA's website at *https://cdx.epa.gov/SSL/PMN/Outbound/Electronic_PMN_Form_version2.pdf.*

(ii) Each person who remits the fee identified in paragraph (c)(1) of this section for a LVE, LoREX, TERA, TMEA, or Tier II exemption request under TSCA section 5 shall insert a check mark for the statement, ''The company named in part 1, section A is a small business concern under 40 CFR 700.43 and has remitted a fee of $940 in accordance with 40 CFR 700.45(c).'' in the exemption application.

(iii) Each person who remits the fee identified in paragraph (c)(1) of this section for an exemption notice under § 723.175 of this chapter shall include the words, ''The company or companies identified in this notice is/are a small business concern under 40 CFR 700.43 and has/have remitted a fee of $940 in accordance with 40 CFR 700.45(c).'' in the certification required in § 723.175(i)(1)(x) of this chapter.

(iv) Each person who remits the fee identified in paragraph (c)(1) of this section for a MCAN or consolidated MCAN for a microorganism shall insert a check mark for the statement, ''The company named in part 1, section A is a small business concern under 40 CFR 700.43 and has remitted a fee of $2,800 in accordance with 40 CFR 700.45(c).'' in the certification required in § 725.25(b) of this chapter.

(6) *Payment certification statement.* (i) Each person who remits a fee identified in paragraph (c)(2) of this section for a PMN, consolidated PMN, or SNUN shall insert a check mark for the statement, ''The company named in part 1, section A has remitted the fee of $16,000 specified in 40 CFR 700.45(c).'' under ''CERTIFICATION'' on page 2 of the Premanufacture Notice for New Chemical Substances (EPA Form 7710–25).

(ii) Each person who remits a fee identified in paragraph (c)(2) of this section for a LVE, LoREX, TERA, TMEA, or Tier II exemption request under TSCA section 5 shall insert a check mark for the statement, ''The company named in part 1, section A has remitted the fee of $4,700 specified in 40 CFR 700.45(c).'' in the exemption application.

(iii) Each person who remits the fee identified in paragraph (c)(2) of this section for an exemption notice under § 723.175 of this chapter shall include the words, ''The company or companies identified in this notice has/have remitted a fee of $4,700 in accordance

with 40 CFR 700.45(c).'' in the certification required in § 723.175(i)(1)(x) of this chapter.

(iv) Each person who remits the fee identified in paragraph (c)(2) of this section for a MCAN for a microorganism shall insert a check mark for the statement, ''The company named in part 1, section A has remitted the fee of $16,000 in accordance with 40 CFR 700.45(c).'' in the certification required in § 725.25(b) of this chapter.

(h) *Full fee refunds.* EPA will refund, in totality, any fee paid for a section 5 notice whenever the Agency determines:

(1) That the chemical substance that is the subject of a PMN, consolidated PMN, exemption request, or exemption notice, is not a new chemical substance as of the date of submission of the notice,

(2) In the case of a SNUN, that the notice was not required,

(3) That as of the date of submission of the notice: The microorganism that is the subject of a MCAN or consolidated MCAN is not a new microorganism; nor is the use involving the microorganism a significant new use; or

(4) When the Agency fails to make a determination on a notice by the end of the applicable notice review period under § 720.75 or § 725.50 of this chapter, unless the Agency determines that the submitter unduly delayed the process, or

(5) When the Agency fails to approve, or deny an exemption request within the applicable period under § 720.38(d), § 723.50(g), or § 725.50(b) of this chapter, unless the Agency determines that the submitter unduly delayed the process.

(i) *Partial fee refunds.* (1) If a TSCA section 5 notice is withdrawn during the first 10 business days after the beginning of the applicable review period under § 720.75(a) of this chapter, the Agency will refund all but 25% of the fee as soon as practicable.

(2) Once withdrawn, any future submission related to the TSCA section 5 notice must be submitted as a new notice.

(3) If EPA determines that the initial payment for a manufacturer-requested risk evaluation exceed the applicable fee in paragraph (c) of this section, EPA will refund the difference.

■ 5. Section 700.49 is revised to read as follows:

§ 700.49 Failure to remit fees.

(a) EPA will not consider a TSCA section 5 notice to be complete unless the appropriate certification under § 700.45(g) is included and until the appropriate remittance under § 700.45(c) has been submitted as provided in § 700.45(g). EPA will notify the submitter of a section 5 notice that it is incomplete in accordance with §§ 720.65(c) and 725.33(b)(1) of this chapter.

(b) Failure to submit the appropriate remittance specified under § 700.45(c) for a test order, test rule, enforceable consent agreement, or EPA-initiated risk evaluation as provided in § 700.45(g) is a violation of TSCA and enforceable under section 15 of the Act.

(c) EPA will not initiate a manufacturer-requested risk evaluation the request for which the Agency has otherwise determined to be complete unless EPA has determined to grant the request and the appropriate initial remittance under § 700.45(c) has been submitted as provided in § 700.45(g).

(d) Failure to submit the appropriate final remittance specified under § 700.45(c) for a manufacturer-requested risk evaluation as provided in § 700.45(g) is a violation of TSCA and enforceable under section 15 of the Act.

PART 720—[AMENDED]

■ 6. The authority citation for part 720 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2613.

■ 7. Section 720.38 is amended by adding paragraphs (b)(6) and (f) to read as follows:

§ 720.38 Exemptions for test marketing.

* * * * *

(b) * * *

(6) A fee payment identity number, as required in 40 CFR 700.45(g)(4).

* * * * *

(f) When applying for a test marketing exemption, persons are subject to fees in accordance with 40 CFR 700.45.

■ 8. Section 720.45 is amended by revising paragraph (a)(5) to read as follows:

§ 720.45 Information that must be included in the notice form.

* * * * *

(a) * * *

(5) If a manufacturer cannot provide all the information specified in paragraphs (a)(1) and (2) of this section because the new chemical substance is manufactured using a reactant having a specific chemical identity claimed as confidential by its supplier, the manufacturer must submit a notice directly to EPA containing all the information known by the manufacturer about the chemical identity of the reported substance and its proprietary reactant. In addition, the manufacturer must ensure that the supplier of the confidential reactant submit a letter of support directly to EPA providing the specific chemical identity of the confidential reactant, including the CAS number, if available, and the appropriate PMN or exemption number, if applicable. The letter of support must reference the manufacturer's name and PMN Fee Identification Number. The statutory review period will commence upon receipt of both the notice and the letter of support.

* * * * *

PART 723—[AMENDED]

■ 9. The authority citation for part 723 continues to read as follows:

Authority: 15 U.S.C. 2604.

■ 10. Revise section 723.175 to read as follows:

§ 723.175 Chemical substances used in or for the manufacture or processing of instant photographic and peel-apart film articles.

(a) *Purpose and scope.* (1) This section grants an exemption from the premanufacture notice requirements of section 5(a)(1)(A) of the Toxic Substances Control Act (15 U.S.C. 2604(a)(1)(A)) for the manufacture and processing of new chemical substances used in or for the manufacture or processing of instant photographic and peel-apart film articles. This section does not apply to microorganisms subject to part 725 of this chapter.

(2) To manufacture a new chemical substance under the terms of this exemption, a manufacturer of instant photographic or peel-apart film articles must:

(i) Submit an exemption notice when manufacture begins under paragraph (i) of this section.

(ii) Comply with certain requirements to limit exposure to the new chemical substance under paragraphs (e) through (h) of this section.

(iii) Comply with all recordkeeping requirements under paragraph (j) of this section.

(iv) Remit the applicable fee specified in § 700.45(c) of this chapter.

(b) *Definitions*—(1) *Act* means the Toxic Substances Control Act (15 U.S.C. 2601 *et seq.*).

(2) An *article* is a manufactured item—

(i) Which is formed to a specific shape or design during manufacture;

(ii) Which has end use function(s) dependent in whole or in part upon its shape or design during end use; and

(iii) Which has either no change of chemical composition during its end use or only those changes of composition which have no commercial

purpose separate from that of the article and that may occur as described in § 710.2 of this chapter except that fluids and particles are not considered articles regardless of shape or design.

(3) The terms *byproduct, EPA, impurities, person,* and *site* have the same meanings as in § 710.3 of this chapter.

(4) The term *category of chemical substances* has the same meaning as in section 26(c)(2) of the Act (15 U.S.C. 2625).

(5) The terms *chemical substance, distribute in commerce, distribution in commerce, environment, manufacture, new chemical substance,* and *process* have the same meanings as in section 3 of the Act (15 U.S.C. 2602).

(6) *Director of the Office of Pollution Prevention and Toxics* means the Director of the EPA Office of Pollution Prevention and Toxics or any EPA employee designated by the Office Director to carry out the Office Director's functions under this section.

(7) The term *exemption category* means a category of chemical substances for which a person(s) has applied for or been granted an exemption under section 5(h)(4) of the Act (15 U.S.C. 2604).

(8) The term *instant photographic film article* means a self-developing photographic film article designed so that all the chemical substances contained in the article, including the chemical substances required to process the film, remain sealed during distribution and use.

(9) *Intermediate* means any chemical substance which is consumed in whole or in part in a chemical reaction(s) used for the intentional manufacture of another chemical substance.

(10) *Known to or reasonably ascertainable* means all information in a person's possession or control, plus all information that a reasonable person similarly situated might be expected to possess, control, or know, or could obtain without unreasonable burden or cost.

(11) The term *peel-apart film article* means a self-developing photographic film article consisting of a positive image receiving sheet, a light sensitive negative sheet, and a sealed reagent pod containing a developer reagent and designed so that all the chemical substances required to develop or process the film will not remain sealed within the article during and after the development of the film.

(12) *Photographic article* means any article which will become a component of an instant photographic or peel-apart film article.

(13) *Special production area* means a demarcated area within which all manufacturing, processing, and use of a new chemical substance takes place, except as provided in paragraph (f) of this section, in accordance with the requirements of paragraph (e) of this section.

(14) *Test data* means:

(i) Data from a formal or informal study, test, experiment, recorded observation, monitoring, or measurement.

(ii) Information concerning the objectives, experimental methods and materials, protocols, results, data analyses (including risk assessments), and conclusions from a study, test, experiment, recorded observation, monitoring, or measurement.

(15) *Used in or for the manufacturing or processing of an instant photographic or peel-apart film article,* when used to describe activities involving a new chemical substance, means the new chemical substance—

(i) Is included in the article; or

(ii) Is an intermediate to a chemical substance included in the article or is one of a series of intermediates used to manufacture a chemical substance included in the article.

(16) *Wet mixture* means a water or organic solvent-based suspension, solution, dispersion, or emulsion used in the manufacture of an instant photographic or peel-apart film article.

(c) *Exemption category.* The exemption category includes new chemical substances used in or for the manufacture or processing of instant photographic or peel-apart film articles which are manufactured and processed under the terms of this section.

(d) *Applicability.* This exemption applies only to manufacturers of instant photographic or peel-apart film articles who:

(1) Manufacture the new chemical substances used in or for the manufacture or processing of the instant photographic or peel-apart film articles.

(2) Limit manufacture and processing of a new chemical substance to the site(s) listed in the exemption notice for that new chemical substance submitted under paragraph (i) of this section.

(3) Comply with the requirements of paragraphs (e), (f), (g), (h), and (j) of this section.

(4) Do not distribute in commerce or use a peel-apart film article containing a new chemical substance until submission of a premanufacture notice under section 5(a)(1)(A) of the Act (15 U.S.C. 2604) and until the review period for the notice has ended without EPA action to prevent distribution or use.

(e) *Conditions of manufacture and processing in the special production area.* All manufacturing, processing, and use operations involving the new chemical substance must be performed in a special production area under the conditions set forth in this paragraph until the new chemical substance has been incorporated into a wet mixture, photographic article, or instant photographic or peel-apart film article.

(1) *Exposure limits.* In the special production area, the ambient air concentration of the new chemical substance during manufacture, processing, and use cannot exceed an 8-hour time weighted average (TWA) of 10 ppm for gases and vapors and 50 $\mu g/m^3$ for particulates, with an allowable TWA excursion of 50 percent above those concentrations for a duration of 30 minutes or less.

(2) *Respiratory protection*—(i) *Respirator requirement.* Except as specified in paragraph (e)(2)(ii) of this section, each person in the special production area must wear an appropriate respiratory protection device to protect against dusts, fumes, vapors, and other airborne contaminants, as described in 29 CFR 1910.134. Selection of an appropriate respirator must be made according to the guidance of American National Standard Practices for Respiratory Protection Z88.2–1969 and the NIOSH Certified Equipment List, U.S. Department of Health and Human Services, NIOSH publication No. 80–144.

(ii) *Waiver of respirator requirement.* Employees are not required to wear respirators if monitoring information collected and analyzed in accordance with paragraph (e)(3) of this section demonstrates that the ambient 8-hour TWA concentration of the new chemical substance in the area is less than 1 ppm for gases and vapors and 5 $\mu g/m^3$ for particulates with an allowable TWA excursion of 50 percent above these concentrations for a duration of 30 minutes or less.

(iii) *Quantitative fit test.* Each respirator must be issued to a specific individual for personal use. A quantitative fit test must be performed for each respirator before its first use by that person in a special production area.

(3) *Monitoring*—(i) *When to monitor.* (A) When suitable sampling and analytic methods exist, periodic monitoring in accordance with this paragraph must be done to ensure compliance with the exposure limits of paragraphs (e)(1) and (e)(2)(ii) of this section.

(B) When suitable sampling and analytic methods do not exist,

compliance with the exposure limits of paragraph (e)(1) and the requirements of paragraph (e)(10) of this section must be determined by an evaluation of monitoring data developed for a surrogate chemical substance possessing comparable physical-chemical properties under similar manufacturing and processing conditions.

(ii) *Monitoring methods.* A suitable air sampling method must permit personal or fixed location sampling by conventional collection methods. A suitable analytic method must have adequate sensitivity for the volume of sample available and be specific for the new chemical substance being monitored. If chemical-specific monitoring methods are not available, nonspecific methods may be used if the concentration of the new chemical substance is assumed to be the total concentration of chemical substances monitored.

(iii) *Monitoring frequency.* (A) When suitable air sampling and analytical procedures are available, monitoring must be done in each special production area during the first three 8-hour work shifts involving the manufacture or processing of each new chemical substance. Thereafter, monitoring must be done in each special production area for at least one 8-hour period per month, during a production run in which the new chemical substance is manufactured or processed. Samples must be of such frequency and pattern as to represent with reasonable accuracy the mean level and maximum 30-minute level of employee exposure during an 8-hour work shift. In monitoring for an 8-hour work shift or the equivalent, samples must be collected periodically or continuously for the duration of the 8-hour work shift. Samples must be taken during a period which is likely to represent the maximum employee exposure.

(B) If the manufacturer demonstrates compliance with the exposure limits for 3 consecutive months, further monitoring of the identical process must be performed only every 6 months thereafter, unless there is a significant change in the process, process design, or equipment. If there is such a change, the manufacturer must begin monitoring again according to the schedule in paragraph (e)(3)(iii)(A) of this section.

(iv) *Location of monitoring.* Air samples must be taken so as to ensure that the samples adequately represent the ambient air concentration of a new chemical substance present in each worker's breathing zone.

(4) *Engineering controls and exposure safeguards.* Engineering controls such as, but not limited to, isolation, enclosure, local exhaust ventilation, and dust collection must be used to ensure compliance with the exposure limits prescribed in paragraph (e)(1) or (e)(2)(ii) of this section.

(5) *Training, hygiene, and work practices*—(i) *Training.* No employee may enter a special production area before the completion of a training program. The training program must be adapted to the individual circumstances of the manufacturer and must address: The known physical-chemical and toxicological properties of the chemical substances handled in the area; procedures for using and maintaining respirators and other personal safeguards; applicable principles of hygiene; special handling procedures designed to limit personal exposure to, and inadvertent release of, chemical substances; and procedures for responding to emergencies or spills.

(ii) *Hygiene.* Appropriate standards of hygiene must be observed by all employees handling a new chemical substance in manufacturing, processing, or transfer operations. The manufacturer must provide appropriate facilities for employee changing and wash-up. Food, beverages, tobacco products, and cosmetics must not be allowed in special production areas.

(iii) *Work practices.* Operating procedures such as those related to chemical weighing and filtering, or the charging, discharging and clean-up of process equipment, must be designed and conducted to ensure compliance with the exposure limits prescribed in paragraph (e)(1) or (e)(2)(ii) of this section. Written procedures and all materials necessary for responding to emergency situations must be immediately accessible to all employees in a special production area. Any spill or unanticipated emission must be controlled by specially trained personnel using the equipment and protective clothing described in paragraph (e)(6) of this section.

(6) *Personal protection devices.* All workers engaged in the manufacture and processing of a new chemical substance in the special production area must wear suitable protective clothing or equipment, such as chemical-resistant coveralls, protective eyewear, and gloves.

(7) *Caution signs.* Each special production area must be clearly posted with signs identifying the area as a special production area where new chemical substances are manufactured and processed under controlled conditions. Each sign must clearly restrict entry into the special production area to qualified personnel who are properly trained and equipped with appropriate personal exposure safeguards.

(8) *Removal for storage or transportation.* A new chemical substance that is not incorporated into a wet mixture, photographic article, or instant photographic or peel-apart film article may be removed from the special production area for purposes of storage between operational steps or for purposes of transportation to another special production area. Such storage or transportation must be conducted in a manner that limits worker and environmental exposure through the use of engineering controls, training, hygiene, work practices, and personal protective devices appropriate to the chemical substance in question.

(9) *Labeling.* (i) Any new chemical substance removed from a special production area or stored or transported between operational steps must be clearly labeled. The label must show the identity of the new chemical substance or an appropriate identification code, a statement of any known hazards associated with it, a list of special handling instructions, first aid information, spill control directions, and where applicable, the appropriate U.S. Department of Transportation notations.

(ii) No label is required if the new chemical substance has been incorporated into a photographic article, or if it is contained in a sealed reaction vessel or pipeline, or if it has been incorporated into an instant photographic or peel-apart film article.

(10) *Areas immediately adjacent to the special production area.* The ambient air concentration of the new chemical substance in areas immediately adjacent to the special production area must not exceed the exposure limit established in paragraph (e)(2)(ii) of this section for waiver of respirator protection within the special production area. Periodic monitoring in accordance with paragraph (e)(3) of this section must be performed in immediately adjacent areas where it is reasonable to expect a risk of inhalation exposure.

(f) *Conditions of processing outside the special production area.* A wet mixture may be incorporated into a photographic article or an instant photographic or peel-apart film article outside the special production area under the conditions listed in this paragraph:

(1) *Engineering controls and exposure safeguards.* Engineering controls must limit the exposure to a new chemical substance contained in a wet mixture.

(2) *Training, hygiene and work practices*—(i) *Training.* Training of

employees involved in the handling of wet mixtures containing a new chemical substance must be adapted to the individual circumstances of the employees' activities and must address: Procedures for using personal exposure safeguards, applicable principles of hygiene, handling procedures designed to limit personal exposure, and procedures for responding to emergencies and spills.

(ii) *Hygiene.* Appropriate standards of hygiene that limit exposure must be observed by all employees handling wet mixtures that contain new chemical substances.

(iii) *Work practices.* Work practices and operating procedures must be designed to limit exposure to any new chemical substance contained in wet mixtures. Any spills or unanticipated releases of a wet mixture must be controlled by trained personnel wearing appropriate protective clothing or equipment such as gloves, eye protection, and, where necessary, respirators or chemically impervious clothing.

(3) *Personal protection devices.* All workers engaged in the processing of a wet mixture containing a new chemical substance must wear suitable protective clothing or equipment such as coveralls, protective eyewear, respirators, and gloves.

(g) *Incorporation of photographic articles into instant photographic and peel-apart film articles.* A photographic article may be incorporated into the instant photographic or peel-apart film article outside the special production area. The manufacturer must take measures to limit worker and environmental exposure to new chemical substances during these operations using engineering controls, training, hygiene, work practices, and personal protective devices.

(h) *Environmental release and waste treatment*—(1) *Release to land.* Process waste from manufacturing and processing operations in the special production area that contain a new chemical substance are considered to be hazardous waste and must be handled in accordance with the requirements of parts 262 through 267 and parts 122 and 124 of this chapter.

(2) *Release to water.* All wastewater or discharge which contain the new chemical substance must be appropriately pretreated before release to a Publicly Owned Treatment Works (POTW) or other receiving body of water. In the case of release to a POTW, the pretreatment must prevent structural damage to, obstruction of, or interference with the operation of the POTW. The treatment of direct release to a receiving body of water must be appropriate for the new chemical substance's physical-chemical properties and potential toxicity.

(3) *Release to air.* All process emissions released to the air which contain the new chemical substance must be vented through control devices appropriate for the new chemical substance's physical-chemical properties and potential toxicity.

(i) *Exemption notice.* An exemption notices must be submitted to EPA when manufacture of the new chemical substance begins.

(1) *Contents of exemption notice.* The exemption notice must include the following information:

(i) *Manufacturer and sites.* The notice must identify the manufacturer and the sites and locations where the new chemical substance and the instant photographic or peel-apart film articles will be manufactured and processed.

(ii) *Chemical identification.* The notice must identify the new chemical substance as follows:

(A) *Class 1 substances.* For chemical substances whose composition can be represented by a definite structural diagram (Class 1 substances), the notice must provide the chemical name (preferably CAS or IUPAC nomenclature), the molecular formula, CAS Registry Number (if available), known synonyms (including trade names), and a structural diagram.

(B) *Class 2 substances.* For chemical substances that cannot be fully represented by a structural diagram, (Class 2 substances), the notice must provide the chemical name, the molecular formula, the CAS Registry Number (if available), and known synonyms (including trade names). The notice must identify the immediate precursors and reactants by name and CAS Registry Number (if available). The notice must include a partial or incomplete structural diagram, if available.

(C) *Polymers.* For a polymer, the notice must identify monomers and other reactants used in the manufacture of the polymer by chemical name and CAS Registry Number. The notice must indicate the amount of each monomer used (by weight percent of total monomer); the maximum residual of each monomer present in the polymer; and a partial or incomplete structural diagram, if available. The notice must indicate the number average molecular weight of the polymer and characterize the anticipated low molecular weight species. The notice must include this information for each typical average molecular weight composition of the polymer to be manufactured.

(iii) *Impurities.* The notice must identify the impurities that can be reasonably anticipated to be present in the new chemical substance when manufactured under the exemption by name and CAS Registry Number, by class of substances, or by process or source. The notice also must estimate the maximum percent (by weight) of each impurity in the new chemical substance and the percent of unknown impurities present.

(iv) *Physical-chemical properties.* The notice must describe the physical-chemical properties of the new chemical substance. Where specific physical-chemical data are not available, reasonable estimates and the techniques used to develop these estimates must be provided.

(v) *Byproducts.* The notice must identify the name, CAS Registry number (if available), and the volume of each byproduct that would be manufactured during manufacture of the new chemical substance.

(vi) *Production volume.* The notice must include an estimate of the anticipated maximum annual production volume.

(vii) *Test data.* The notice must include all information and test data on the new chemical substance's health and environmental effects that are known to or reasonably ascertainable by the manufacturer.

(viii) *Identity of the article.* The notice must identify and describe the instant photographic film article(s) or peel-apart film article(s) that will contain the new chemical substance.

(ix) *Release to water.* The notice must include a description of the methods used to control and treat wastewater or discharge released to a POTW or other receiving body of water. The notice must also identify the POTW or receiving body of water.

(x) *Certification.* The manufacturer must certify in the notice that it is familiar with the terms of the exemption and that the manufacture, processing, distribution, use, and disposal of the new chemical substance will comply with those terms.

(xi) *Fee payment ID number.* The manufacturer or processor must include a payment identity number on the front page of the notice.

(2) *Duplication of information in premanufacture notice.* If a manufacturer who submits an exemption notice under this paragraph has already submitted, or simultaneously submits, a premanufacture notice under section 5(a)(1)(A) of the Act for the new chemical substance, it may, in lieu of submitting the information required by

this paragraph, reference the required information to the extent it is included in the premanufacture notice. At a minimum, the exemption notice must identify the manufacturer and the new chemical substance, and contain the certification required by paragraph (i)(1)(x) of this section.

(3) *Address.* The exemption notice must be addressed to the Document Control Office (DCO) (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.

(j) *Recordkeeping.* (1) Manufacturers of a new chemical substance under this exemption must keep the following records for 30 years from the final date of manufacture.

(i) *Production records.* Each manufacturer must maintain records of the annual production volume of each new chemical substance manufactured under the terms of the exemption. This record must indicate when manufacture of the new chemical substance began.

(ii) *Exposure monitoring records.* Manufacturers must maintain an accurate record of all monitoring required by this section. Monitoring records may be adapted to the individual circumstances of the manufacturer but, at a minimum, must contain the following information: The chemical identity of the new chemical substance, date of the monitoring, the actual monitoring data for each monitoring location and sampling, and a reference to or description of the collection and analytic techniques. If the manufacturer does not monitor, the manufacturer must maintain a record of the reasons for not monitoring and the methods used to determine compliance with the exposure limits of paragraph (e)(1) of this section.

(iii) *Training and exposure records.* For each employee engaged in the manufacture or processing of a new chemical substance, the company must develop and maintain a record of the worker's participation in required training. This record must also demonstrate the regular use of personal exposure safeguards, including the results of any personal exposure monitoring, the results of the quantitative fit test for the worker's personal respirator, and any additional information related to the worker's occupational exposure.

(iv) *Treatment records.* Manufacturers who release treated wastewater or discharge containing a new chemical substance to a POTW or other receiving body of water must maintain records of the method of treatment.

(2) The manufacturer must make the records listed in paragraph (j)(1) of this section available to EPA upon written request by the Director of the Office of Pollution Prevention and Toxics. The manufacturer must provide these records within 15 working days of receipt of this request.

(k) *Confidentiality.* If the manufacturer submits information under paragraph (i) or (j) of this section which it claims to be confidential business information, the manufacturer must clearly identify the information at the time of submission to the Agency by bracketing, circling, or underlining it and stamping it with ''CONFIDENTIAL'' or some other appropriate designation. Any information so identified will be treated in accordance with the procedures in part 2 of this chapter. Any information not claimed confidential at the time of submission will be made available to the public without further notice to the submitter.

(l) *Amendment and repeal.* (1) EPA may amend or repeal any term of this exemption if it determines that the manufacture, processing, distribution, use, and disposal of new chemical substances under the terms of the exemption may present an unreasonable risk of injury to health or the environment. EPA also may amend this exemption to enlarge the exemption category or to reduce the restrictions or conditions of the exemption.

(2) As required by section 5(h)(4) of the Act, EPA will amend or repeal the substantive terms of an exemption granted under this part only by the formal rulemaking procedures described in section 6(c)(2) and (3) of the Act (15 U.S.C. 2605(c)).

(m) *Prohibition of use of the exemption.* The Director of the Office of Pollution Prevention and Toxics may prohibit the manufacture, processing, distribution, use, or disposal of any new chemical substance under the terms of this exemption if he or she determines that the manufacture, processing, distribution in commerce, use, or disposal of the new chemical substance may present an unreasonable risk of injury to health or the environment.

(n) *Enforcement.* (1) A failure to comply with any provision of this part is a violation of section 15 of the Act (15 U.S.C. 2614).

(2) Submitting materially misleading or false information in connection with the requirements of any provision of this part is a violation of this regulation and therefore a violation of section 15 of the Act (15 U.S.C. 2614).

(3) Violators may be subject to the civil and criminal penalties in section 16 of the Act (15 U.S.C. 2615) for each violation.

(4) EPA may seek to enjoin the manufacture of a new chemical substance in violation of this exemption or act to seize any chemical substances manufactured in violation of the exemption under the authority of section 17 of the Act (15 U.S.C. 2616).

PART 725—[AMENDED]

■ 11. The authority citation for part 725 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, 2613, and 2625.

■ 12. Section 725.25 is amended by adding paragraph (i) to read as follows:

§ 725.25 General administrative requirements.

* * * * *

(i) *Fees.* Persons submitting MCANs and exemption requests to EPA under this part are subject to the applicable fees and conditions specified in §§ 700.40, 700.45(c), and 700.49 of this chapter.

■ 13. Section 725.33 is amended by revising paragraphs (a)(9) and (10) to read as follows:

§ 725.33 Incomplete submissions.

(a) * * *

(9) The submitter does not remit the fees required by § 700.45(c) of this chapter.

(10) The submitter does not include an identifying number and a payment identity number.

* * * * *

PART 790—[AMENDED]

■ 14. The authority citation for part 790 continues to read as follows:

Authority: 15 U.S.C. 2603.

■ 15. Section 790.45 is amended by adding paragraphs (c)(7) and (g) to read as follows:

§ 790.45 Submission of letter of intent to conduct testing or exemption application.

* * * * *

(c) * * *

(7) A payment identity number on the front page of the letter, as required in § 700.45(g)(4) of this chapter.

* * * * *

(g) Manufacturers and processors subject to a test rule described in § 790.40 and required to comply with the requirements of that test rule as provided in § 790.42(a) must remit the applicable fee specified in § 700.45(c) of this chapter.

■ 16. Section 790.59 is amended by adding paragraph (c) to reads as follows:

§ 790.59 Failure to comply with a test rule.

* * * * *

(c) Persons who fail to pay the requisite fee as specified in § 700.45(c) of this chapter will be in violation of the rule.

■ 17. Section 790.60 is amended by adding paragraphs (a)(18) and (d) to read as follows:

§ 790.60 Contents of consent agreements.

(a) * * *

(18) Payment identity number, as required in § 700.45(g)(4) of this chapter.

* * * * *

(d) *Fees.* Manufacturers and/or processors signing the consent agreement are subject to the applicable fee specified in § 700.45(c) of this chapter.

■ 18. Section 790.65 is amended by revising paragraph (b) to read as follows:

§ 790.65 Failure to comply with a consent agreement.

* * * * *

(b) The Agency considers failure to comply with any aspect of a consent agreement, including the failure to pay requisite fees as specified in § 700.45 of this chapter, to be a ''prohibited act'' under section 15 of TSCA, subject to all the provisions of the Act applicable to violations of section 15. Section 15(1) of TSCA makes it unlawful for any person to fail or refuse to comply with any rule or order issued under section 4. Consent agreements adopted pursuant to this part are ''orders issued under section 4'' for purposes of section 15(1) of TSCA.

* * * * *

PART 791—[AMENDED]

■ 19. The authority citation for part 791 continues to read as follows:

Authority: 15 U.S.C. 2603 and 2607.

■ 20. Section 791.39 is amended by removing paragraph (a)(3) and revising paragraph (b).

The revision reads as follows:

§ 791.39 Fees and expenses.

* * * * *

(b) *Expenses.* All expenses of the hearing, including the cost of recording (though not transcribing) the hearing and required traveling and other expenses of the hearing officer and of American Arbitration Association representatives, and the expenses of any witness or the cost of any proofs produced at the direct request of the hearing officer, shall be borne equally by the parties, unless they agree otherwise, or unless the hearing officer, in the award, assesses such expenses or any part thereof against any specified party or parties.

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Part IV

Department of the Treasury

Internal Revenue Service

26 CFR Parts 1 and 301

De Minimis Error Safe Harbor Exceptions to Penalties for Failure To File Correct Information Returns or Furnish Correct Payee Statements; Proposed Rule

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 301

[REG–118826–16]

RIN 1545–BN59

De Minimis Error Safe Harbor Exceptions to Penalties for Failure To File Correct Information Returns or Furnish Correct Payee Statements

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to penalties for failure to file correct information returns or furnish correct payee statements. The proposed regulations contain safe harbor rules that, for penalty purposes, generally treat as correct payee statements or corresponding information returns that contain errors relating to de minimis incorrect dollar amounts. They prescribe the time and manner in which a payee may elect not to have the safe harbor rules apply. They also update penalty amounts and update references to information reporting obligations. Finally, they provide rules relating to the reporting of basis of securities by brokers as this reporting relates to the de minimis error safe harbor rules. The proposed regulations affect persons required to either file information returns or to furnish payee statements (filers), and recipients of payee statements (payees).

DATES: Written or electronic comments and requests for a public hearing must be received by December 17, 2018.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–118826–16), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–118826–16), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC, or sent via the Federal eRulemaking Portal at *www.regulations.gov* (REG–118826–16).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations Mark A. Bond of the Office of Associate Chief Counsel (Procedure and Administration), (202) 317–6844; concerning the submission of comments and a request for a public hearing, Regina L. Johnson, (202) 317–6901 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collection of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, SE:CAR:MP:T:T:SP, Washington, DC 20224. Comments on the collection of information should be received by December 17, 2018. Comments are specifically requested concerning:

Whether the proposed collection of information is necessary for the proper performance of the Internal Revenue Service, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collection of information (see below);

How the quality, utility, and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collection of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of service to provide information.

The collection of information in these proposed regulations is in proposed regulations §§ 301.6722–1(d)(3)(iii) regarding the payee election, 301.6722–1(d)(3)(v)(B) regarding the filer notification, 301.6722–1(d)(3)(vii) regarding the payee revocation, and 301.6722–1(d)(4) regarding record retention. The information in proposed regulations §§ 301.6722–1(d)(3)(iii) and 301.6722–1(d)(3)(vii) will be used by payees to make and revoke elections and by filers to determine whether they are required to furnish corrected payee statements to payees and file corrected information returns with the IRS to avoid application of penalties under sections 6721 and 6722. The information under proposed regulation § 301.6722–1(d)(3)(v)(B) will be used to give filers and payees flexibility in establishing reasonable alternative manners for elections. And the information in proposed regulation § 301.6722–1(d)(4) will be used by the IRS to determine whether filers are subject to penalties under sections 6721 and 6722. The collection of information in proposed regulations §§ 301.6722–1(d)(3)(iii) regarding the payee election, 301.6722–1(d)(3)(v)(B) regarding the filer notification, and 301.6722–1(d)(3)(vii) regarding the payee revocation is voluntary to obtain a benefit. The collection of information in proposed regulation § 301.6722–1(d)(4) regarding record retention is mandatory. The likely respondents are individuals, state or local governments, farms, business or other for-profit institutions, nonprofit institutions, and small businesses or organizations.

Estimated total annual reporting burden: 992,102 hours.

Estimated average annual burden hours per respondent: approximately 0.10 hours.

Estimated number of respondents: 10,057,746.

Estimated annual frequency of responses: 16,123,292.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

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.

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR part 1) under section 6045(g) of the Internal Revenue Code (Code) relating to returns of brokers in the case of securities transactions, as well as proposed amendments to the Procedure and Administration Regulations (26 CFR part 301) under section 6721(c)(3) relating to the safe harbor exception for certain de minimis errors from the penalty for failure to file correct information returns, section 6722(c)(3) relating to the safe harbor exception for certain de minimis errors from the penalty for failure to furnish correct payee statements, and section 6724 relating to the reasonable cause waiver to the section 6721 and section 6722 penalties. It also contains proposed amendments to the regulations under sections 6721, 6722, and 6724 to update penalty amounts and references to specific information reporting obligations.

Section 6045 provides for information reporting by persons doing business as

brokers. Section 6045(g) provides for specific rules in the case of reporting of securities transactions, including for the reporting of basis amounts.

Section 6721 imposes a penalty when a person fails to file an information return on or before the prescribed date, fails to include all of the information required to be shown on the information return, or includes incorrect information on the information return. Section 6722 imposes a penalty when a person fails to furnish a payee statement on or before the prescribed date, fails to include all of the information required to be shown on the payee statement, or includes incorrect information on the payee statement. Section 6724 provides definitions, special rules, and a reasonable cause waiver from penalties for a failure relating to an information reporting requirement.

PATH Act Amendments

Section 202(a) of the Protecting Americans from Tax Hikes Act of 2015, Public Law 114–113 (129 Stat. 2242, 3077 (2015)) (PATH Act), added section 6721(c)(3), effective for information returns required to be filed after December 31, 2016. Section 202(b) of the PATH Act added section 6722(c)(3), effective for payee statements required to be furnished after December 31, 2016. Section 202(c) of the PATH Act added section 6045(g)(2)(B)(iii), effective for information returns required to be filed, and payee statements required to be furnished, after December 31, 2016.

Sections 6721(c)(3)(A) and 6722(c)(3)(A) provide that an information return or payee statement that includes one or more de minimis errors in a dollar amount appearing on the information return or payee statement shall be treated as correct for penalty purposes. An error in a dollar amount is de minimis if the difference between any single amount in error and the correct amount does not exceed $100 and, if the difference is with respect to an amount of tax withheld, the difference is not more than $25.

Under section 6722(c)(3)(B), the safe harbor exception does not apply to any payee statement when the person to whom the payee statement is required to be furnished (that is, the payee) makes an election, at the time and in the manner as the Secretary may prescribe, that the safe harbor exception not apply with respect to such statement. Under section 6721(c)(3)(B), an election by the payee with respect to a payee statement operates to make the safe harbor exception for de minimis errors inapplicable to errors on the corresponding information return.

Sections 6721(c)(3)(C) and 6722(c)(3)(C) provide that the Secretary may issue regulations to prevent the abuse of the safe harbor exceptions, including regulations providing that the safe harbor exceptions shall not apply to the extent necessary to prevent abuse.

Section 6045(g)(2)(B)(iii) provides that except as otherwise provided by the Secretary, a customer's adjusted basis for purposes of section 6045 shall be determined by treating any incorrect dollar amount which is not required to be corrected by reason of section 6721(c)(3) or section 6722(c)(3) as the correct amount.

Other Statutory Amendments

Section 1211(b)(2) of the Pension Protection Act of 2006, Public Law 109–280 (120 Stat. 780, 1073 (2006)), added section 6721(e)(2)(D), providing for calculation of the section 6721 penalty for failures due to intentional disregard in the case of a return required to be filed under section 6050V, effective for acquisitions of contracts after August 17, 2006.

Section 2102 of the Creating Small Business Jobs Act of 2010, Public Law 111–240 (124 Stat. 2504, 2561–64 (2010)), increased penalty amounts throughout sections 6721 and 6722 for information returns required to be filed and payee statements required to be furnished on or after January 1, 2011.

Section 208 of the Tax Increase Prevention Act of 2014, Public Law 113–295 (128 Stat. 4010, 4074 (2014)), amended sections 6721(f)(1) and 6722(f)(1) effective for information returns required to be filed and payee statements required to be furnished after December 31, 2014. The amended paragraphs provide for annual inflationary adjustments to the section 6721 and section 6722 penalties.

Section 806 of the Trade Preferences Extension Act of 2015, Public Law 114–27 (129 Stat. 362, 416–18 (2015)), increased the penalty amounts throughout sections 6721 and 6722, effective for returns required to be filed and statements required to be furnished after December 31, 2015.

Section 6724 and the regulations thereunder define the terms ''information return'' and ''payee statement'' and provide that the penalties under sections 6721 and 6722 will not be imposed with respect to any failure if it is shown that the failure was due to reasonable cause and not to willful neglect.

Section 2004 of the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015, Public Law 114–41 (129 Stat. 443, 454–55 (2015)), amended section 6724(d)(1) and 6724(d)(2) to add information reporting under section 6035, relating to basis information with respect to property acquired from decedents, to the definitions of information return and payee statement, respectively.

Section 13520(c) of An Act to provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal year 2018, Public Law 115–97 (131 Stat. 2054, 2150 (2017)) (Pub. L. 115–97), amended section 6724(d)(1) and 6724(d)(2) to add information reporting under section 6050Y, regarding returns relating to certain life insurance contract transactions, to the definitions of information return and payee statement, respectively.

Section 206(o) of the Consolidated Appropriations Act of 2018, Public Law 115–141 (132 Stat. 348, 1182 (2018)), amended section 6724(d)(2) to add information reporting under section 6226(a)(2) (regarding statements relating to alternative to payment of imputed underpayment by a partnership) or under any other provision of Title 26 which provides for the application of rules similar to section 6226(a)(2), to the definition of payee statement.

Notice 2017–09, 2017–4 I.R.B. 542, and Comments in Response to the Notice

On January 4, 2017, the Treasury Department and the IRS released Notice 2017–09, 2017–4 I.R.B. 542, ''De Minimis Error Safe Harbor to the I.R.C. §§ 6721 and 6722 Penalties,'' to provide guidance regarding the de minimis error safe harbor exceptions from information reporting penalties under sections 6721 and 6722. The notice provided requirements for the payee election under section 6722(c)(3)(B), including the time and manner for making the election. The notice clarified that the de minimis error safe harbor exceptions do not apply in the case of an intentional error or if a filer fails to file an information return or furnish a payee statement. The notice required filers to retain certain records. The notice announced the intention of the Treasury Department and the IRS to issue regulations with respect to the de minimis error safe harbor exceptions and the payee election to have the safe harbor exceptions not apply, and stated that to the extent the regulations incorporate the rules contained in the notice, the regulations will be effective for returns required to be filed, and payee statements required to be furnished, after December 31, 2016. The notice solicited comments regarding the rules contained in the notice and regarding any potential abuse of the de minimis error safe harbor exceptions. In

response to the notice, the Treasury Department and IRS received 11 comments. The Treasury Department and IRS have considered all of the comments and addressed them in this preamble.

One comment in response to the notice focused on the administrative burden of the election process provided for by Notice 2017–09 and requested that the IRS consider this burden. The comment stated that the framework in Notice 2017–09 misses Congressional intent to reduce the burden of increased penalties as a result of the Trade Preferences Extension Act of 2015 and the costs of correcting information returns for de minimis amounts. Additionally, the comment stated that it could not envision a single reason an individual, financial institution, or the IRS would want a corrected information return issued for a de minimis amount. Congress determined that there was a need for the payee election; therefore, the Treasury Department and the IRS do not propose to deny payees the ability to elect to have a corrected information return filed and payee statement furnished when an error is de minimis, in particular, prior to the issuance of regulations providing the time and manner for how such an election is to be made. The Treasury Department and the IRS have determined that potential administrative burden on filers is one, but not the only, factor that must be considered in implementing these provisions.

The comment requested that the concept of de minimis and the minor dollar amounts subject to the payee election be weighed against the cost and complexity of instituting and monitoring the payee election process described in Notice 2017–09. It stated that a way to ensure reasonability is to integrate the payee election process into existing procedures, systems, and data structures. The Treasury Department and the IRS acknowledge the potential administrative burden on filers inherent to any new rules; however, the Treasury Department and the IRS note that filers are free to integrate the payee election process allowed by the proposed regulations within existing procedures, systems, and data structures. Further, the Treasury Department and the IRS have determined that potential administrative burden on filers is one, but not the only, factor that must be considered in implementing these provisions and that the need to provide an effective framework for payees to make the payee election is an additional factor that must be considered.

The comment further stated that the best framework to satisfy Congressional intent would be one in which a filer could alert a payee at account opening, or on a one-time basis for currently opened accounts, to the fact that the filer will not issue a corrected statement for any errors that fall within the de minimis error limits of $100 and $25. Under the comment's proposal, the notice would specify that the payee could elect to receive corrected payee statements by making an election in a manner prescribed by the filer. The Treasury Department and the IRS note that proposed regulation § 301.6722–1(d)(3)(v) incorporates rules similar to this proposal by providing the option for filers to give notification to every payee to whom the filer furnishes a payee statement of the payee's ability to elect that the safe harbor exception for de minimis errors not apply and by providing the payee reasonable alternative options to make the election, such as by telephone or through a website. Proposed regulation § 301.6722–1(d)(3)(v)(D)(*2*) provides that in cases where valid notification has been provided with respect to a particular account, no further notification is required unless the filer wishes to change the reasonable alternative manner. This rule balances the need for payees to have up-to-date information of any reasonable alternative manners proposed by each filer furnishing statements to the payee with the administrative costs to filers who opt to provide notifications.

The comment stated that the payee election should be on an annual basis, applied only to transactions reportable in the year the election is made. Because this suggestion would place considerable burden on payees to make annual elections, either as a precautionary measure or after monitoring payee statements for accuracy, proposed regulation § 301.6722–1(d)(3)(ii) adopts a different rule, providing that the election shall remain in effect until revoked. This rule allows payees to elect to receive corrections whenever they may become necessary, regardless of whether it is the payee or the filer who becomes aware of the de minimis error. In general, the filer will be best positioned to first become aware of any de minimis error. An election with indefinite effect obviates the need for payees to make annual cautionary elections, in case there is an error of which they are not aware.

The comment also stated that an election without the specific account number associated with it should not be valid and that the election should not include the payee's taxpayer identification number (TIN) and address information. The comment raised the issue of fraudulent activity through identity theft, but the comment did not provide details regarding how providing TIN and address information in a payee election raises identify theft concerns. The Treasury Department and the IRS recognize that in some instances the provision of an account number will be expedient for filers, but also recognize that payees, particularly those who have had accounts for extended periods, may not have ready access to their full account numbers. Further, the provision of a payee's TIN and address information ensures that filers will have at their disposal information reasonably sufficient to identify the payee that is making the payee election. Proposed regulation § 301.6722–1(d)(3)(iii) therefore provides that as a default rule a filer shall treat an election as valid regardless of whether the payee provides an account number, and it requires the payee's TIN and address information.

Proposed regulation § 301.6722–1(d)(3)(v), however, also provides that if the filer provides notification to the payee under proposed regulation § 301.6722–1(d)(3)(v)(B), the filer may specify that an election using a reasonable alternative manner under proposed regulation § 301.6722–1(d)(3)(v) need not include the payee's TIN and address information, and must include the payee's account information. These rules would apply only if the payee decides to make use of the alternative election manner proposed by the filer under proposed regulation § 301.6722–1(d)(3)(v) and not the default election manner under proposed regulation § 301.6722–1(d)(3)(iii). The proposed rules thus generally provide for flexibility for filers who choose to send notifications to payees, while maintaining a simple default election option for payees.

The comment also proposed that an election relating to a specific account should apply to all payee statements or to no payee statements in that account. It focused on the burden to filers of elections applied on a statement-by-statement basis, and the potential that an election might apply to payee statements made in composite form. Additionally, the comment requested that the IRS provide some of the reasons it expects a taxpayer will request corrected returns in the de minimis error context on a statement-by-statement basis. The comment's suggested rule is inconsistent with the statutory framework of sections 6721 through 6724, which applies generally on a per statement basis. Section 6722(c)(3)(A) prescribes the de minimis

error safe harbor exception ''with respect to any payee statement.'' Additionally, the comment's proposal would significantly limit payees' options for making elections. Further, the Treasury Department and the IRS note that the Code permits filers to provide corrected statements regardless of the de minimis error safe harbor exceptions or payee election. Thus, filers may provide corrections on an account-wide basis once a payee makes an election with respect to a single type of payee statement associated with that account. For example, if a payee submits an election to a filer with respect to the Form 1099–DIV, ''Dividends and Distributions,'' that the filer is required to furnish to the payee, the filer is required under sections 6721(c)(3) and 6722(c)(3) and these proposed regulations to issue corrections even for de minimis errors. Under the proposed regulations, if the filer is also required to furnish a Form 1099–B, ''Proceeds From Broker and Barter Exchange Transactions,'' to the payee, and the payee specifically made the payee's election with respect to the Form 1099–DIV (and not the Form 1099–B), the election under proposed regulation § 301.6722–1(d)(3)(i) does not apply with respect to the Form 1099–B, and the filer is not required to correct Forms 1099–B for de minimis errors. But the filer may decide that it is more administrable for the filer to correct for de minimis errors for every payee statement the filer sends to the payee, including the Form 1099–B. Thus, the per-statement election provides flexibility to filers. In addition, proposed regulation § 301.6722–1(d)(3)(iv) provides that if a payee does not identify the type of payee statement to which the election relates, the filer shall treat the election as applying to all types of payee statements the filer is required to furnish to the payee. Finally, as described above, filers who choose to provide notification and a reasonable alternative manner for the election may provide that as a condition of using the reasonable alternative manner the payee must provide the filer the payee's account number, and the filer may then provide corrections on an account-wide basis. For these reasons, proposed regulation § 301.6722–1(d)(3)(iii) does not adopt the comment's suggested rule.

The comment noted that section 202 of the PATH Act does not contain explicit language regarding a payee's ability to revoke a prior election under section 6722(c)(3)(B). The comment stated that providing for a revocation is unnecessary to accomplish Congress's specific mandate and may prove to be more costly and burdensome than continuing to issue corrections for de minimis errors. The comment further stated that, if revocations are permitted, they should be permitted only on an annual basis applied to the next year after the year in which the revocation was made. The comment's concern is that the language regarding revocations in section 3.02 of Notice 2017–09 could lead to a revocation being applicable to a portion of a calendar year, with an election applicable to a separate portion of that year. The Treasury Department and the IRS do not agree that this will cause significant burden to filers because a revocation does not mandate changes in behavior on behalf of the filer, but rather provides penalty relief for the filer if an information return contains a de minimis error and is not corrected. As a result, proposed regulation § 301.6722–1(d)(3)(vii) provides that a revocation will apply to payee statements that are furnished or are due to be furnished after the revocation is received by the filer.

The Treasury Department and the IRS note that while the revocation may cause the election to apply for only the first part of a calendar year, nothing prevents filers from continuing to issue corrections for the rest of the calendar year (as they had been doing with respect to the portion of the year when the election was in effect). Immediate effect of the revocation provides immediate penalty relief for filers in the case of a de minimis error that is uncorrected and allows filers to stop issuing corrections for de minimis errors as soon after receipt of the revocation as they wish. In the unlikely scenario of an election in a calendar year, followed by a revocation in the same calendar year, followed by another election in the same calendar year, the situation will not be that of various rules for various periods within the calendar year—rather, because the election is effective for the entire calendar year and subsequent years until revoked under proposed regulations §§ 301.6721–1(e)(3) and 301.6722–1(d)(3)(ii), the last, valid election would apply to the same period it would absent the prior election and prior revocation. Because the Treasury Department and the IRS do not view the potential for multiple filings of elections and revocations within a year as a significant concern, the proposed regulations do not complicate the rules in an effort to further address this issue. Regarding the length of the effectiveness of a revocation, an indefinite revocation, rather than an annual revocation system, should impose less administrative burden both on filers and payees given the decreased frequency of filing.

The comment also stated that brokers should be specifically permitted to ignore the use of the de minimis error safe harbor exceptions and continue to issue corrections for de minimis amounts. The Treasury Department and the IRS agree that brokers, like other filers, may do so without specific permission. Because there is no need for the regulations to provide brokers with specific permission, this comment was not adopted.

The comment also commented on the final and temporary regulations under §§ 1.6081–8 and 1.6081–8T contained in TD 9730, stating that the automatic extension to file various information returns should, as a general matter, remain in place. This portion of the comment is beyond the scope of these regulations.

In addition the comment asked for clarification of a filer's reporting obligations under the de minimis error safe harbor exceptions where the threshold reporting obligation is not initially met, but upon a subsequent corrective event, the reportable dollar amount exceeds the threshold amount but does not exceed the de minimis error limit. The de minimis error safe harbor exceptions do not apply to this situation, because they do not apply to a failure to file; the safe harbor exceptions apply only to inadvertent errors on a filed information return or furnished payee statement. This rule is reflected in proposed regulation § 301.6722–1(d)(1). The comment further asked whether an election applies only to payee statements and information returns required to be furnished or filed in the year of the election, or later, or to any corrections made after the election, regardless of when the reporting to which the correction is related is required. Proposed regulation § 301.6722–1(d)(3)(ii) addresses this question by providing that an election under proposed regulation § 301.6722–1(d)(3)(i) applies to payee statements required to be furnished and information returns required to be filed during the calendar year of the election, or later; if a payee statement is required to be furnished or an information return is required to be filed before the beginning of the calendar year of the election, the election would not apply, regardless of when the filer realizes a reporting error was made. The comment asked whether the language in Notice 2017–09 reading ''within 30 days of the date of the election'' should instead reference 30 days from discovery of the error for purposes of the error being

treated as due to reasonable cause and not willful neglect. The ''within 30 days of the date of the election'' language in the notice is now reflected in proposed regulation § 301.6724–1(h). The Treasury Department and the IRS determined that the election, rather than the discovery of the error, is the appropriate focus because a special rule is needed only in those situations where a payee election causes the de minimis error safe harbor exceptions to not apply. In cases where a payee has made an election under proposed regulation § 301.6722(d)(3)(i) and a filer subsequently discovers an error, whether the error is de minimis or not, the normal reasonable cause rules under section 6724, such as in § 301.6724–1(d)(1) relating to responsible manner, apply. Examples 8 and 9 in proposed regulation § 301.6724–1(k) illustrate these rules.

The comment also requested clarification regarding the following language in section 3.02 of Notice 2017–09:

> Nothing in this notice prevents a payee from requesting that the filer file a corrected information return or furnish a corrected payee statement required to be filed or furnished in a calendar year preceding the calendar year in which the payee makes the election.

The comment asked whether the ''or'' in the phrase ''filed or furnished'' should be ''and'' because, regardless of the payee's request, the filer would both furnish the corrected payee statement and file the corrected information return. The comment also asked whether this language places any obligation upon the filer to oblige the payee's request pursuant to this language. The Treasury Department and the IRS note that the proposed regulations do not include the quoted language, so the comment's inquiries regarding it are not applicable.

Six additional comments concurred with the comments and questions made by the one comment that has been described thus far in this preamble. One of these six additional comments also emphasized the administrative burden needed for financial firms to implement the rules described in Notice 2017–09, and the impact especially on smaller or midsized firms. The comment stated that the increased cost has no tangible benefit or demonstrated revenue-raising impact. The Treasury Department and the IRS note that the statute provides payees with the ability to elect that the de minimis error safe harbor exceptions not apply. The regulations strike a balance between the benefit of the de minimis error safe harbor exceptions for filers and the statutory ability for payees to elect that the de minimis error safe harbor exceptions not apply. The statutory ability for payees to make an election that the de minimis error safe harbor exceptions not apply, rather than any revenue-raising metric, is the benefit to be weighed against administrative burdens to filers.

The comment also stated that the framework set forth in Notice 2017–09 runs contrary to the intent of the notice, existing regulations, and the Trade Preferences Extension Act of 2015, but the comment does not provide details as to how this is the case and we cannot therefore address this portion of the comment.

An additional comment quoted the following language from Notice 2017–09, section 3.01: ''This notice does not prohibit a filer from filing corrected information returns and furnishing corrected payee statements if the payee does not make an election.'' The comment stated that the mitigation of administrative burden of processing corrections under the de minimis error safe harbor exceptions is realized not only by filers but by payees as well, and recommended that guidance discourage corrected statements for de minimis errors. The Treasury Department and the IRS do not agree; accurate reporting is an important goal that should not be discouraged. Thus, the proposed regulations do not adopt the comment's suggestion.

The comment also stated that requiring a filer to provide each payee with written notification of the de minimis error safe harbor exception rules and election out provisions would be unduly burdensome to filers, shifting administrative burden from processing corrected statements to the notification process. The comment recommended that the IRS include a general disclosure regarding the de minimis error safe harbor exceptions in general instructions relating to information returns. The Treasury Department and the IRS decided to not include a notification requirement in the proposed regulations. Rather, the proposed regulations provide only that if filers wish to set up election systems that vary from the default contained in proposed regulation § 301.6722–1(d)(3)(iii), a notification is required for that reasonable alternative manner of election under proposed regulation § 301.6722–1(d)(3)(v). For this reason, the proposed regulations do not reflect this comment. The Treasury Department and the IRS are considering whether to include references to the de minimis error safe harbor exceptions, the election under § 301.6722–1(d)(3)(i), and other information in general instructions or in specific forms or instructions, and note that the current (2018) General Instructions for Certain Information Returns as well as the current (2018) General Instructions for Forms W–2 and W–3 contain discussions of the de minimis error safe harbor exceptions and related information.

The comment also requested clarification regarding whether the de minimis error safe harbor exception is for the cumulative total of multiple errors, or one particular error. The comment noted that the safe harbor exception would be easier to apply if it is calculated on an error-by-error basis. Proposed regulation § 301.6722–1(d)(2) clarifies that the safe harbor exception is calculated on an error-by-error basis.

The comment further stated that if an error is discovered by the filer, the payee should not be able to elect that the de minimis error safe harbor exceptions not apply and that the filer should make the determination of whether a corrected form is needed, in light of the threshold amounts of $100 and $25. The comment stated that the election process does not lead to a reduction in the administrative burden. Because this suggestion is contrary to section 6722(c)(3)(B), which specifically provides for the payee to make the election under section 6722(c)(3)(B), the proposed regulations do not adopt the suggestion.

The comment also stated, regarding any notification requirement, that errors may be identified by the payee and communicated to the filer and then at that point, if the dollar amount is below the applicable threshold, the filer should inform the payee of the de minimis error safe harbor exceptions and the payee's ability to elect that the safe harbor exceptions not apply. As noted above, the proposed regulations do not contain a notification requirement.

The comment stated that additional consideration should be given to allow the payee election to expire, noting that such a rule could reduce administrative burden for filers, given a resulting decrease in required corrections. Because a rule under which the payee election expires after a set amount of time would increase the complexity of the election and revocation framework both for filers (tracking years in which the election is in effect) and for payees (same, and refiling elections after expiration, if desired), proposed regulation § 301.6722–1(d)(3)(ii) does not adopt such a rule.

The comment also requested examples of what a de minimis error correction would look like. A de

minimis error correction would be substantially similar to a correction of an error greater than a de minimis error in the context of corrected information reporting—that is, the filing of a corrected information return, and the furnishing of a corrected payee statement (for example, filing a corrected Form 1099–MISC with the IRS, and furnishing a corrected Form 1099–MISC to the payee).

The comment also requested explanation of what ''de minimis'' is and is not. Proposed regulation § 301.6722–1(d)(2) provides the definition of de minimis error, and proposed regulation § 301.6722–1(d)(5) illustrates this definition with examples.

The comment requested an opt-out provision for filers that, if selected, would remove any responsibility to collect information and keep records under Notice 2017–09. The Treasury Department and the IRS have considered potential expenses that filers might incur in meeting the record retention requirements in proposed regulation § 301.6722–1(d)(4) and have determined that an opt-out provision, while potentially reducing expenses borne by filers, would render the record retention rules ineffective. The record retention requirements facilitate tax administration by providing proof of compliance and assisting filers to avoid penalties under sections 6721 and 6722. The Treasury Department and the IRS note that the notification under proposed regulation § 301.6722–1(d)(3)(v)(B) is a voluntary collection of information because the notification is optional. Therefore, the proposed regulations do not adopt this comment.

Finally, the comment asked whether any notification requirement will be effective for payees receiving their statements in 2016. The effective/applicability date provisions in proposed regulation § 301.6722–1(g) provide that the rules relating to the optional notification by filers under proposed regulation § 301.6722–1(d)(3)(v) are proposed to apply with respect to information returns and payee statements due on or after January 1 of the calendar year immediately following the date of publication of a Treasury decision adopting these rules as final regulations in the **Federal Register**.

An additional comment requested that the payee election provisions under section 6722(c)(3)(B) and proposed regulation § 301.6722–1(d)(3)(i) not apply to Form 8937, ''Report of Organizational Actions Affecting Basis of Securities.'' The comment noted that under section 6045B(e) and regulation § 1.6045B–1(a)(3) a filer need not file and issue individual Forms 8937, but can opt to post a single Form 8937 on its public website. The comment noted that the Form 8937 is not specific to an individual payee, but instead describes tax basis adjustments in the abstract for use by brokers in determining the basis reporting for their customers. It noted that the individually-focused nature of the payee election is at odds with the public reporting enabled by section 6045B(e) and regulation § 1.6045B–1(a)(3). And it noted that a single election with respect to a posted Form 8937 could lead to inefficiencies for numbers of brokers (including those who did not make the election) once a correction is issued.

The Treasury Department and the IRS acknowledge these concerns. However, Congress presumably was aware of the public reporting option under section 6045B(e) and regulation § 1.6045B–1(a)(3) (enacted October 3, 2008, and published October 18, 2010, respectively) when it enacted the de minimis error safe harbor exceptions. Congress did not provide for authority to exclude information returns or payee statements from the de minimis error safe harbor, or the payee election, based on administrative inconvenience. The proposed regulations therefore do not adopt this comment's suggested rule.

A final comment requested that the payee election be available only as a one-time election and apply prospectively only. The comment stated that nothing in the notice prevents a payee from requesting that the filer file a corrected information return or furnish a corrected payee statement from years preceding the election, and noted that this presents burdens and potential for abuse by payees. The comment may have misconstrued Notice 2017–09, in part, because nothing in the notice provided for an election for a year preceding the year in which the election was made. In like manner, proposed regulation § 301.6722–1(d)(3)(ii) provides that an election made by October 15 of a calendar year—for example, Calendar Year 1—can apply retrospectively to a Form 1099–MISC required to be furnished in January of Calendar Year 1, but the election would have no validity with respect to any payee statements required to be furnished in any calendar years preceding Calendar Year 1. Thus, the retrospective application is limited to the current calendar year, along with the potential administrative burden and any potential for abuse. The comment does not adequately establish that ''cherry picking'' the corrections of de minimis dollar amounts poses a significant threat of abuse. Regarding potential administrative burden to filers, while a one-time prospective election might be less burdensome, this is but one factor that must be considered; flexibility for payees in requesting corrected statements is another. As discussed below, proposed regulation § 301.6722–1(d)(3)(ii) balances these factors.

The comment requested the information required for a payee election be streamlined to simplify elections as a matter of customer service. Proposed regulation § 301.6722–1(d)(3)(v) allows filers to provide a reasonable alternative manner that they view as satisfactory to their customers.

The comment also echoed previous comments in requesting the flexibility to issue corrections, despite generally taking advantage of the de minimis error safe harbor exceptions, for purposes of cost basis adjustments under section 6045. To address this and similar comments, proposed regulation § 1.6045–1(d)(6)(vii) provides that when a broker both files a corrected information return and issues a corrected payee statement showing the correct dollar amount, even though not required by section 6721(c)(3) or section 6722(c)(3), the corrected amount is the adjusted basis for section 6045 purposes.

The comment asked that the recordkeeping requirement in section 3.05 of Notice 2017–09, of ''. . . as long as that information may be relevant to the administration of any internal revenue law'' be reduced from a potentially open-ended length of time to a range of three years (the general statute of limitations on assessment under section 6501) to seven years (the time period used for various Securities and Exchange Commission and Financial Industry Regulatory Authority recordkeeping requirements), stating that the open-ended retention schedule is unnecessary and burdensome. Proposed regulation § 301.6722–1(d)(4) does not adopt this comment, because the records under this section (such as an election, until revoked) may be relevant to tax administration in years beyond the general statute of limitations on assessment under section 6501 for a particular year. For example, if an election is made in 2019 and not revoked until 2025, that election will be relevant with respect to information returns required to be filed and payee statements required to be furnished in 2024. The rules in proposed regulation § 301.6722–1(d)(4) therefore reflect the general record retention rules in section 6001 and § 1.6001–1(e), providing for record retention as long as the contents of an election, revocation, or

notification may be material in the administration of any internal revenue law.

Finally, the comment requested guidance regarding how a payee election that the de minimis error safe harbor exceptions not apply would apply to joint accounts, such as when joint account payees submit contrary elections, or one joint account payee submits an election but another does not. Absent contrary provisions under the Internal Revenue Code or Code of Federal Regulations, the rules that typically govern issues of authority over joint accounts should address these matters, and a special rule for purposes of de minimis error reporting is unnecessary. The Treasury Department and the IRS note that filers have the option to ignore the availability of the de minimis error safe harbor exceptions and issue corrections for de minimis amounts as was required to avoid penalties prior to the enactment of the PATH Act. Filers can therefore issue corrections to all joint account payees even if joint account payees submit contrary elections, or one joint account payee submits an election but another does not.

Explanation of Provisions

1. Safe Harbor Exceptions From Penalties for Certain De Minimis Errors

In accord with sections 6721(c)(3)(A) and 6722(c)(3)(A), proposed regulations §§ 301.6721–1 and 301.6722–1 provide for safe harbor exceptions to the section 6721 and section 6722 penalties. With certain exceptions discussed below, the safe harbor exceptions apply in circumstances when an information return or payee statement is otherwise correct and is timely filed or furnished and includes a de minimis error in a dollar amount reported on the information return or payee statement. When the safe harbor exception applies to an information return or payee statement and the information return or payee statement is otherwise correctly and timely filed or furnished, no correction is required and, for purposes of sections 6721 or 6722, respectively, the information return or payee statement is treated as having been filed or furnished with all of the correct required information.

Pursuant to sections 6721(c)(3)(A) and 6722(c)(3)(A), an error is a de minimis error if the difference between any single amount in error and the correct amount is not more than $100, or, if the difference is with respect to an amount of tax withheld, it is not more than $25. Proposed regulation § 301.6722–1(d)(2) defines tax withheld to include any amount required to be shown on an information return or payee statement (as defined in section 6724(d)(1) and (d)(2), respectively) withheld under section 3402, as well as any such amount that is creditable under sections 27, 31, 33, or 1474. This is not an exclusive definition but is intended to ensure that all amounts giving rise to dollar-for-dollar reductions in tax, including foreign tax credits under section 27, are included as tax withheld.

2. Errors Due to Intentional Disregard of Information Reporting Requirements

In accord with sections 6721(e) and 6722(e), proposed regulations §§ 301.6721–1(e)(1) and 301.6722–1(d)(1) provide that the safe harbor exceptions for certain de minimis errors do not apply in cases of intentional disregard of the requirements to file correct information returns or furnish correct payee statements. In those cases, higher penalty amounts imposed by sections 6721(e) and 6722(e) and proposed regulations §§ 301.6721–1(g) and 301.6722–1(c) apply. For example, a person may not choose to forgo filing information returns or furnishing payee statements that the person is required to file or furnish under the Code and that report amounts less than $100 and tax withheld less than $25. To do so would be an intentional disregard of the filing requirement and result in higher penalties.

3. Payee Election To Receive Corrected Payee Statement

In accord with sections 6721(c)(3)(B) and 6722(c)(3)(B), proposed regulations §§ 301.6721–1(e)(3) and 301.6722–1(d)(3)(i) allow a payee to elect to have the safe harbor exceptions for certain de minimis errors not apply to the information reporting penalties. The proposed regulations provide that a payee may elect that the safe harbor exception to section 6722 penalties not apply to a payee statement, and that the election will also apply to the safe harbor exception to section 6721 penalties with respect to corresponding information returns. Proposed regulation § 301.6722–1(d)(3)(vi) provides that the election is not available with respect to information that may not be altered under specific information reporting rules. For example, § 1.6045–4(i)(5) provides special rules for defining gross proceeds in the context of multiple transfers for information reporting on real estate transactions, and prohibits altering information after the due date for filing the Form 1099–S, ''Proceeds From Real Estate Transactions.'' Allowing an election under proposed regulation § 301.6722–1(d)(3)(i) with respect to the Form 1099–S would suggest that a correction would or should be made. To resolve any ambiguity between these provisions, proposed regulation § 301.6722–1(d)(3)(vi) prohibits an election with respect to information that may not be altered under specific information reporting rules, such as under § 1.6045–4(i)(5).

Proposed regulation § 301.6722–1(d)(3)(ii) provides that a payee must make any election no later than the later of 30 days after the date on which the payee statement is required to be furnished to the payee, or October 15 of the calendar year, to receive a correct payee statement required to be furnished in that calendar year without having the safe harbor exceptions for certain de minimis errors apply. The October 15 date coincides with the fully-extended due date an individual may have to file an income tax return. In arriving at this date, the Treasury Department and the IRS considered both the needs of persons who furnish payee statements and the needs of payees, who will generally have a filing due date no later than October 15 if their taxable year corresponds to the calendar year referenced on the payee statements they receive. Prior to promulgation of these proposed regulations, the IRS advised payees to request corrected payee statements from filers in cases in which information is incorrect, without time limit on making this request. Imposing a deadline to elect before October 15 could limit a taxpayer's ability to correct errors discovered while the payee is preparing his or her return. The allowance of an election after the due date for most payee statements and through October 15 allows payees to inspect payee statements and make elections for purposes of timely filing their income tax returns. On the other hand, the existence of an election cutoff date of October 15 in the case of most payee statements reduces administrative burden on filers by eliminating elections after October 15. The 30-day rule provides a deadline in cases of payee statements required to be furnished later in the calendar year, such as the Schedule K–1 (Form 1065), ''Partner's Share of Income, Deductions, Credits, etc.,'' required to be furnished to payees by fiscal year partnerships.

To reduce the administrative burden of yearly elections on both payees and filers, an election remains in effect for all subsequent years until revoked under proposed regulation § 301.6722–1(d)(3)(vii). The effect of a revocation of a prior election is that the safe harbor exceptions for de minimis errors apply. The revocation will be effective for

payee statements furnished or due to be furnished after the revocation is received. Because a revocation makes the safe harbor for certain de minimis errors applicable, potentially reducing the accuracy of information returns and payee statements, payees have no need to be able to make a retroactive revocation after receipt of any payee statements and during the period of preparing individual income tax returns. Likewise, the immediate effect of the revocation is beneficial to the filer, because it immediately applies the de minimis error safe harbor exceptions, eliminating the requirement to issue corrected information returns containing only de minimis errors incurred by an election under proposed regulation § 301.6722–1(d)(3)(i). If issuing corrections is easier for the filer, the filer can always do so. A revocation will remain in effect until the payee makes a valid and timely election under proposed regulation § 301.6722–1(d)(3)(i).

For determining the ''date of receipt'' by the filer, paragraphs (ii) and (vii) of proposed regulation § 301.6722–1(d)(3), relating to elections and revocations, respectively, provide that for purposes of proposed regulation § 301.6722–1 the provisions of section 7502 relating to timely mailing treated as timely delivery apply in determining the date an election under proposed regulation § 301.6722–1(d)(3)(ii) or revocation under proposed regulation § 301.6722–1(d)(3)(vii) is considered to be received by the filer, treating delivery to the filer as if the filer were an agency, officer, or office under section 7502, so that the date of mailing may control the timeliness of an election or revocation. These rules provide for more clarity regarding the date of an election or revocation.

Under proposed regulation § 301.6722–1(d)(3)(iii), the default manner for an election by the payee that the de minimis error safe harbor exceptions not apply is by writing on paper, mailed to the address for the filer appearing on the payee statement the payee received from the filer with respect to which the election is being made, or as provided to them by the filer. Proposed regulation § 301.6722–1(d)(3)(iii)(A) through (D) provide the requirements for what information must be included in the written election, such as the payee's name, address, and taxpayer identification number (TIN). This information is necessary for the filer to implement the election.

Proposed regulation § 301.6722–1(d)(3)(v) provides that the payee may make the election under proposed regulation § 301.6722–1(d)(3)(i) in a reasonable alternative manner if the filer provides a valid notification to the payee describing the reasonable alternative manner. The reasonable alternative manner, as described in proposed regulation § 301.6722–1(d)(3)(v)(E), may include electronic elections by email or telephonic elections. For a notification under proposed regulation § 301.6722–1(d)(3)(v) to be valid, and make available the reasonable alternative manner, the notification must be written (paper or electronic), must be timely under the provisions of proposed regulation § 301.6722–1(d)(3)(v)(D), must explain to the payee the payee's ability to make the election under proposed regulation § 301.6722–1(d)(3)(i), must provide an address to which the payee may send a written election under proposed regulation § 301.6722–1(d)(3)(i) and (iii), and must describe the information required for making the election as described by proposed regulation § 301.6722–1(d)(3)(iii)(A) through (D). To be timely under proposed regulation § 301.6722–1(d)(3)(v)(D), a notification must be provided to the payee with, or at the time of, the furnishing of the payee statement, or have previously been timely provided (under the with, or at the time of, rule) to the payee with a payee statement associated with the relevant account. Under proposed regulation § 301.6722–1(d)(3)(v)(D)(*2*), if a filer wishes to provide for a different reasonable alternative manner than a previous reasonable alternative manner, the applicable timeliness rule is under proposed regulation § 301.6722–1(d)(3)(v)(D)(*1*) (the with, or at the time of, rule) and the filer must accept payee elections under the previous reasonable alternative manner for a period of at least 60 days after the receipt of the new notification by the payee.

To ease the administrative burden on filers, the notification may provide that certain of the information otherwise required under proposed regulation § 301.6722–1(d)(3)(iii)(B) is not required, and that certain of the information (the otherwise optional account number) is required, if the payee decides to use the reasonable alternative manner rather than the default manner.

The combination of the default election under proposed regulation § 301.6722–1(d)(3)(iii) and the reasonable alternative manner, including electronic and telephonic elections, pursuant to a valid notification by the filer, provides a straightforward election process for payees who do not have notification provided them, as well as additional flexibility to filers who wish to provide notification to payees of the election and alternative methods for making the election.

Proposed regulation § 301.6722–1(d)(3)(vii)(A) through (F) provides requirements for a revocation that are similar to the requirements for an election.

4. Reasonable Cause

When a payee makes an election under § 301.6722–1(d)(3)(i) by the later of 30 days after the date on which the payee statement is required to be furnished to the payee, or October 15 of the calendar year, the safe harbor exceptions for de minimis errors no longer apply with respect to the payee statement, and corresponding information return, required to be furnished and filed that year. If the payee statement has already been furnished or the information return already been filed, and they contain de minimis errors, the section 6721 and 6722 penalties will apply absent the applicability of an exception other than the safe harbor exceptions for certain de minimis errors. Proposed regulation § 301.6724–1(h) provides special rules to determine whether the exception for reasonable cause applies in this situation. Section 301.6724–1(h) only applies when the safe harbor for certain de minimis errors would have applied, but for an election under § 301.6722–1(d)(3)(i).

Under this provision, a filer may establish that a failure caused by the presence of de minimis errors and an election under § 301.6722–1(d)(3)(i) is due to reasonable cause and not willful neglect by filing a corrected information return or furnishing a corrected payee statement, or both, as applicable, within 30 days of the date of the election. Where specific rules provide for additional time in which to furnish a corrected payee statement and file a corrected information return, for example with Forms W–2C, the 30-day rule does not apply and the specific rules will apply. In the case of filing or furnishing outside of the 30-day period the determination of reasonable cause will be on a case-by-case basis. Examples 8 and 9 in proposed regulation § 301.6724–1(k) illustrate reasonable cause under this provision and when reasonable cause might occur under a separate provision.

5. Cost Basis

To encourage correct reporting, and to facilitate brokers with the accurate maintenance of cost basis systems, proposed regulation § 1.6045–1(d)(6)(vii) provides that voluntary

corrections by brokers will result in updated adjusted basis under section 6045, even when the incorrect dollar amounts are not ''required to be corrected by reason of section 6721(c)(3) or section 6722(c)(3).'' See I.R.C. section 6045(g)(2)(B)(iii). This proposed regulation allows brokers who identify a de minimis error in their cost basis systems to fix the mismatch between their systems and the previously-reported (incorrect) dollar amount through voluntary subsequent reporting. The updated adjusted basis under section 6045 has no effect on calculating basis under other basis determination sections, such as section 1012.

6. Record Retention

To facilitate proof of compliance, proposed regulation § 301.6722–1(d)(4) provides that filers must retain records of any election, revocation, or notification for as long as the contents of the election, revocation, or notification may be material in the administration of any internal revenue law. Whether an election, revocation, or notification was effectively made under these regulations can affect whether the section 6721 or 6722 penalties apply. Thus, records of any election, revocation, or notification are relevant to determining the tax liability of any person under sections 6721 or 6722. See section 6001 and § 1.6001–1(e).

7. Updates and Conforming Amendments

To reflect increased penalty amounts due to section 2102 of the Creating Small Business Jobs Act of 2010 and section 806 of the Trade Preferences Extension Act of 2015, the proposed regulations update dollar amounts throughout. Additionally, to reflect the provision for annual inflationary adjustments in section 208 of the Tax Increase Prevention Act of 2014, proposed regulations §§ 301.6721–1(i) and 301.6722–1(f) provide for adjustments for inflation.

To reflect the amendments by section 2004 of the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015, section 13520(c) of Public Law 115–97, and section 206(o) of the Consolidated Appropriations Act of 2018 to sections 6724(d)(1) and 6724(d)(2), proposed regulations §§ 301.6721–1(h)(2)(xii) and (h)(3)(xxvi) and 301.6722–1(e)(2)(xxxv), (xxxvi), and (xxxvii) are added to update the definitions of information return and payee statement.

To reflect the amendments by section 1211(b)(2) of the Pension Protection Act of 2006 to section 6721(e)(2), proposed regulation § 301.6721–1(g)(4)(iv)(D) provides for the calculation of the section 6721 penalty in case of intentional disregard in the case of a return required to be filed under section 6050V.

Proposed regulation § 301.6724–1(m) provides for updated procedures for a taxpayer to use to seek an administrative waiver that a failure is due to reasonable cause and not due to willful neglect, as the prior language referencing the district director was out of date.

The proposed regulations remove outdated references to various taxable years, replacing with updated years where necessary, such as in examples.

The proposed regulations make numerous conforming amendments to reflect the addition and renumbering of paragraphs. Proposed regulation § 301.6721–0 provides an updated table of contents.

Proposed Effective/Applicability Date

The regulations, as proposed, would generally apply with respect to information returns required to be filed and payee statements required to be furnished on or after January 1 of the calendar year immediately following the date of publication of a Treasury decision adopting these rules as final regulations in the **Federal Register**. Proposed regulation § 301.6724–1(h), however, would apply with respect to information returns required to be filed and payee statements required to be furnished on or after January 1, 2017. See I.R.C. section 7805(b)(1)(C) and section 4 of Notice 2017–09, IRB–2017–4 (January 23, 2017).

Effect on Other Documents

Upon the publication of final regulations pursuant to the proposed regulations under sections 6045, 6721, 6722, and 6724 in this notice of proposed rulemaking in the **Federal Register**, Notice 2017–09 will be superseded with respect to information returns required to be filed and payee statements required to be furnished on or after January 1 of the calendar year immediately following the date of publication of a Treasury decision adopting these rules as final regulations in the **Federal Register**.

Special Analyses

These regulations are not subject to review under section 6(b) of Executive Order 12866 pursuant to the Memorandum of Agreement (April 11, 2018) between the Treasury Department and the Office of Management and Budget regarding review of tax regulations.

Pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6), it is hereby certified that the collection of information contained in these regulations, if adopted, would not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required. As stated in this preamble, the proposed regulations would implement the de minimis error safe harbor exceptions in sections 6721(c)(3) and 6722(c)(3) to the section 6721 and 6722 penalties. Pursuant to section 6722(c)(3)(B), the proposed regulations would also provide for the time and manner for elections by payees that the de minimis error safe harbor exceptions not apply, including optional notifications by filers to provide for an alternative reasonable manner for the election. Finally, the proposed regulations would provide rules for revocations by payees of elections and record retention rules.

Although the proposed regulations may potentially affect a substantial number of small entities, the economic impact on these entities is not expected to be significant. The de minimis error safe harbor exceptions are expected to greatly reduce the burden on filers to file corrected information returns and furnish corrected payee statements because of de minimis errors. In those cases where payees opt to elect that the de minimis error safe harbor exceptions not apply, the expense of making the election will be borne by the payees, which generally will not be small entities.

Filers that are small entities receiving elections may incur costs in processing the elections, including initial costs in implementing systems or modifying existing systems to process elections, and subsequently in time incurred administering these systems. However, because section 6722(c)(3)(B) provides for a payee election, costs flow from the statute regardless of the proposed regulations. Additionally, filers that are small entities generally will have information reporting systems currently in place, and any costs incurred pursuant to the proposed regulations in modifying and implementing these systems are not expected to be significant. The rules in the proposed regulations provide clarity regarding the election process, which is expected to result in a more streamlined process.

Similarly, in those cases where payees opt to revoke a prior election, the expense of making the revocation will be borne by the payees, which generally will not be small entities. Filers that are small entities receiving revocations will benefit from the resulting applicability

of the de minimis error safe harbor exceptions, resulting in reduced burden to file corrected information returns and furnish corrected payee statements because of de minimis errors. Filers that are small entities receiving revocations may incur costs in processing the revocations similar to those incurred in processing elections; however, it is expected that systems implementing payee elections can be modified with minimal additional cost to account for revocations in addition to elections. Filers that are small entities opting to provide the optional notification to payees regarding an alternative reasonable manner for making the election may incur costs in providing the notification. However, it is expected that filers will only provide optional notifications when they have determined that any cost in providing the notification is offset by a resulting economic benefit to the filer, such as a more cost-efficient election system. The record retention rules may also increase expenses for filers that are small entities; however, any added expenses are expected to be minimal given existing record retention systems. Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are timely submitted to the IRS as prescribed in the preamble under the **ADDRESSES** section. The Treasury Department and the IRS request comments on all aspects of these proposed regulations. All comments submitted will be made available at *www.regulations.gov* or upon request. A public hearing may be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these regulations is Mark A. Bond of the Office of the Associate Chief Counsel (Procedure and Administration).

List of Subjects

26 CFR Part 1

Income taxes.

26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 301 are proposed to be amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805. * * *

■ **Par. 2.** Section 1.6045–1 is amended by redesignating paragraph (d)(6)(vii) as paragraph (d)(6)(viii), adding paragraphs (d)(6)(vii) and (ix), and revising paragraphs (k)(4), (l), and (q) to read as follows:

§ 1.6045–1 Returns of information of brokers and barter exchanges.

* * * * *

(d) * * *

(6) * * *

(vii) *Treatment of de minimis errors.* For purposes of this section, a customer's adjusted basis shall generally be determined by treating any incorrect dollar amount which is not required to be corrected by reason of section 6721(c)(3) or section 6722(c)(3) as the correct amount. However if a broker, upon identifying a dollar amount as incorrect, voluntarily both files a corrected information return and issues a corrected payee statement showing the correct dollar amount, then regardless of any requirement under section 6721 or section 6722, the adjusted basis shall be the correct dollar amount as reported on the corrected information return and corrected payee statement.

* * * * *

(ix) *Applicability date.* Paragraph (d)(6)(vii) of this section applies with respect to information returns required to be filed and payee statements required to be furnished on or after January 1 of the calendar year immediately following the date of publication of a Treasury decision adopting these rules as final regulations in the **Federal Register**.

* * * * *

(k) * * *

(4) *Cross-reference to penalty.* For provisions for failure to furnish timely a correct payee statement, see § 301.6722–1 of this chapter (Procedure and Administration Regulations). See § 301.6724–1 of this chapter for the waiver of a penalty if the failure is due to reasonable cause and is not due to willful neglect.

(l) *Use of magnetic media.* See § 301.6011–2 of this chapter for rules relating to filing information returns on magnetic media and for rules relating to waivers granted for undue hardship. A broker or barter exchange that fails to file a Form 1099 on magnetic media, when required, may be subject to a penalty under section 6721 for each such failure. See paragraph (j) of this section.

* * * * *

(q) *Applicability date.* Except as otherwise provided in paragraphs (d)(6)(ix), (m)(2)(ii), and (n)(12)(ii) of this section, and in this paragraph (q), this section applies on or after January 6, 2017. Paragraphs (k)(4) and (l) of this section apply with respect to information returns required to be filed and payee statements required to be furnished on or after January 1 of the calendar year immediately following the date of publication of a Treasury decision adopting these rules as final regulations in the **Federal Register**. (For rules that apply after June 30, 2014, and before January 6, 2017, see this section as in effect and contained in 26 CFR part 1, as revised April 1, 2016.)

PART 301—PROCEDURE AND ADMINISTRATION

■ **Par. 3.** The authority citation for part 301 continues to read in part as follows:

Authority: 26 U.S.C. 7805.

* * * * *

■ **Par. 4.** Section 301.6721–0 is revised to read as follows:

§ 301.6721–0 Table of Contents.

In order to facilitate the use of §§ 301.6721–1 through 6724–1, this section lists the paragraph headings contained in these sections.

§ 301.6721–1 Failure to file correct information returns.

(a) Imposition of penalty.

(1) General rule.

(2) Failures subject to the penalty.

(b) Reduction in the penalty when a correction is made within specified periods.

(1) Correction within 30 days.

(2) Correction after 30 days but on or before August 1.

(3) Required filing date defined.

(4) Penalty amount for return with multiple failures.

(5) Examples.

(6) Applications to returns not due on January 31, February 28, or March 15.

(c) Exception for inconsequential errors or omissions.

(1) In general.

■ **Par. 5.** Section 301.6721–1 is amended by:
■ 1. Revising paragraph (a)(1).
■ 2. Revising the ninth sentence of paragraph (a)(2)(ii).
■ 3. Revising paragraphs (b)(1), (2), (5), and (6), (c)(1), (c)(2)(iii), (c)(3), and (d).
■ 4. Redesignating paragraphs (e), (f), and (g) as paragraphs (f), (g), and (h).
■ 5. Adding a new paragraph (e).
■ 6. Revising newly redesignated paragraphs (f)(1), (g)(1) and (4) through (6), (h)(1), and (h)(2)(x) and (xi) and adding paragraph (h)(2)(xii).
■ 7. Revising newly redesignated paragraphs (h)(3)(xvii), (xviii), (xxiv), and (xxv) and adding paragraph (h)(3)(xxvi).
■ 8. Revising newly redesignated paragraphs (h)(4) and (6).
■ 9. Adding paragraphs (i) and (j).

The revisions and additions read as follows:

§ 301.6721–1 Failure to file correct information returns.

(a) *Imposition of penalty*—(1) *General rule.* A penalty of $250 is imposed for each information return (as defined in section 6724(d)(1) and paragraph (h) of this section) with respect to which a failure (as defined in section 6721(a)(2) and paragraph (a)(2) of this section) occurs. No more than one penalty will be imposed under this paragraph (a)(1) with respect to a single information return even though there may be more than one failure with respect to such return. The total amount imposed on any person for all failures during any calendar year with respect to all information returns shall not exceed $3,000,000. See paragraph (b) of this section for a reduction in the penalty when the failures are corrected within specified periods. See paragraph (c) of this section for an exception to the

penalty for inconsequential errors or omissions. See paragraph (d) of this section for an exception to the penalty for a de minimis number of failures. See paragraph (e) of this section for a safe harbor exception for certain de minimis errors. See paragraph (f) of this section for lower limitations to the $3,000,000 maximum penalty. See paragraph (g) of this section for higher penalties when a failure is due to intentional disregard of the requirement to file timely correct information returns. See paragraph (i) of this section for inflation adjustments to penalty amounts. See § 301.6724–1(a)(1) for waiver of the penalty for a failure that is due to reasonable cause.

(2) * * *

(ii) * * * Except as provided in paragraph (c)(1) or (e)(1) of this section, a failure to include correct information encompasses a failure to include the information required by applicable information reporting statutes or by any administrative pronouncements issued thereunder (such as regulations, revenue rulings, revenue procedures, or information reporting forms and form instructions). * * *

(b) *Reduction in the penalty when a correction is made within specified periods*—(1) *Correction within 30 days.* The penalty imposed under section 6721(a) for a failure to file timely or for a failure to include correct information shall be $50 in lieu of $250 if the failure is corrected on or before the 30th day after the required filing date (''within 30 days''). The total amount imposed on a person for all failures during any calendar year that are corrected within 30 days shall not exceed $500,000.

(2) *Correction after 30 days but on or before August 1.* The penalty imposed under section 6721(a) for a failure to file timely or for a failure to include correct information shall be $100 in lieu of $250 if the failure is corrected after the 30-day period described in paragraph (b)(1) of this section but on or before August 1 of the year in which the required filing date occurs (''after 30 days but on or before August 1''). See paragraph (b)(6) of this section for an exception to the provisions of this paragraph (b)(2) for returns that are not due on January 31, February 28, or March 15. The total amount imposed on a person for all failures during any calendar year corrected after 30 days but on or before August 1 shall not exceed $1,500,000.

* * * * *

(5) *Examples.* The provisions of paragraphs (a) and (b)(1) through (4) of this section may be illustrated by the following examples. These examples do not take into account any possible application of the de minimis exception under paragraph (d) of this section, the safe harbor exception for certain de minimis errors under paragraph (e) of this section, the lower small business limitations under paragraph (f) of this section, the penalty for intentional disregard under paragraph (g) of this section, any adjustments for inflation under paragraph (i) of this section, or the reasonable cause waiver under § 301.6724–1(a):

(i) Example 1. Corporation R fails to file timely 23,000 Forms 1099–MISC (relating to miscellaneous income) for the 2018 calendar year. Five thousand of these returns are filed with correct information within 30 days, and 18,000 after 30 days but on or before August 1, 2019. For the same year R fails to file timely 400 Forms 1099–INT (relating to payments of interest) which R eventually files on September 28, 2019, after the period for reduction of the penalty has elapsed. R is subject to a penalty of $100,000 for the 400 forms which were not filed by August 1 ($250 x 400 = $100,000), $1,500,000 for the 18,000 forms filed after 30 days ($100 x 18,000 = $1,800,000, limited to $1,500,000 under paragraph (b)(2) of this section), and $250,000 for the 5,000 forms filed within 30 days ($50 x 5,000 = $250,000), for a total penalty of $1,850,000.

(ii) Example 2. Corporation T fails to file timely 14,000 Forms 1099–MISC for the 2018 calendar year. T files the 14,000 Forms 1099–MISC on September 1, 2019. Because T does not correct the failure by August 1, 2019, T is subject to a penalty of $3,000,000, the maximum penalty under paragraph (a) of this section. Without the limitation of paragraph (a), T would be subject to a $3,500,000 penalty ($250 x 14,000 = $3,500,000).

(iii) Example 3. Corporation U files timely 300 Forms 1099–MISC on paper for the 2018 calendar year with correct information. Under section 6011(e)(2) a person required to file at least 250 returns during a calendar year must file those returns on magnetic media. U does not correct its failures to file these returns on magnetic media by August 1, 2019. It is therefore subject to a penalty for a failure to file timely under paragraph (a)(2) of this section. However, pursuant to section 6724(c) and paragraph (a)(2) of this section, the penalty for a failure to file timely on magnetic media applies only to the extent the number of returns exceeds 250. As U was required to file 300 returns on magnetic media, U is subject to a penalty of $12,500 for 50 returns ($250 x 50 = $12,500).

(iv) Example 4. Corporation V files 300 Forms 1099–B (relating to proceeds from broker and barter exchange transactions) on paper for the 2018 calendar year. The forms were filed on March 15, 2019, rather than on the required filing date of February 28, 2019. Under section 6011(e)(2), a person required to file at least 250 returns during a calendar year must file those returns on magnetic media. V does not correctly file these returns on magnetic media by August 1, 2019. V is subject to a penalty of $12,500 for filing 250 of the returns late ($50 x 250) and $12,500 for failing to file 50 returns on magnetic media ($250 x 50) for a total penalty of $25,000.

(6) *Application to returns not due on January 31, February 28, or March 15.* For returns that are not due on January 31, February 28, or March 15 (for example, Forms 8300 reporting certain cash payments of $10,000 or more), the penalty is $50 if the failure is corrected within 30 days. If the failure is corrected after 30 days, the penalty is $250 rather than $100. There is no period during which the penalty is reduced to $100 under paragraph (b)(2) of this section.

(c) *Exception for inconsequential errors or omissions*—(1) *In general.* An inconsequential error or omission is not considered a failure to include correct information. For purposes of this paragraph (c)(1), the term ''inconsequential error or omission'' means any failure that does not prevent or hinder the Internal Revenue Service from processing the return, from correlating the information required to be shown on the return with the information shown on the payee's tax return, or from otherwise putting the return to its intended use. See paragraph (h)(5) of this section for the definition of ''payee.''

(2) * * *

(iii) Any monetary amounts, except as provided in paragraph (e) of this section. The Internal Revenue Service may, by administrative pronouncement, specify other types of errors or omissions that are never inconsequential.

(3) *Examples.* The provisions of this paragraph (c) may be illustrated by the following examples, which do not take into account any possible application of the penalty for intentional disregard under paragraph (g) of this section or the reasonable cause waiver under § 301.6724–1(a):

(i) Example 1. A filer files a Form 1099–MISC (relating to miscellaneous income) with the Internal Revenue Service. The Form 1099–MISC is complete and correct except that the word ''street'' is misspelled in the payee's address. The error does not prevent or hinder the Internal Revenue Service from processing the return, from correlating the information required to be shown on the return with the information shown on the payee's tax return, or from otherwise putting the return to its intended use. Therefore, no penalty is imposed under paragraph (a) of this section.

(ii) Example 2. A filer files a Form 1099–MISC with the Internal Revenue Service. The Form 1099–MISC is complete and correct except that the payee's first name, William, is misspelled as ''Willaim.'' The error does not prevent or hinder the Internal Revenue Service from processing the return, from correlating the information required to be shown on the return with the information

shown on the payee's tax return, or from otherwise putting the return to its intended use. See paragraph (c)(2) of this section. Therefore, no penalty is imposed under paragraph (a) of this section.

(iii) Example 3. A filer files a Form 1099–MISC with the Internal Revenue Service. The Form 1099–MISC is complete and correct except that the payee's name, ''John Doe,'' is misspelled as ''John Ode.'' Under paragraph (c)(2) of this section, supplying an incorrect surname for a payee is never considered an inconsequential error. Therefore, a penalty is imposed under paragraph (a) of this section.

(d) *Exception for a de minimis number of failures*—(1) *Requirements.* The penalty under paragraph (a) of this section is not imposed for a de minimis number of failures to include correct information if the filer corrects such failures on or before August 1 of the year in which the required filing date occurs. See paragraph (d)(4) of this section for special rules relating to returns that are not due on January 31, February 28, or March 15.

(2) *Calculation of the de minimis exception.* The number of returns to which the de minimis exception applies for any calendar year shall not exceed the greater of 10 or one-half of one percent of the total number of all information returns the filer is required to file during the year. If the number of returns on which the filer fails to include correct information exceeds the number of returns to which the de minimis exception applies, the de minimis exception applies to those returns that will afford the filer the greatest reduction in penalty. The de minimis exception applies to failures to include correct information that exist after the application (if any) of the safe harbor exception for certain de minimis errors under paragraph (e) of this section and after the application (if any) of the waiver for reasonable cause under section 6724(a) and § 301.6724–1. Returns to which the de minimis exception applies are treated as having been originally filed with correct information.

(3) *Examples.* The provisions of this paragraph (d) may be illustrated by the following examples. In each of the examples, the failures to file and to include correct information are subject to penalty under paragraph (a) of this section. The examples do not take into account any possible application of the safe harbor exception for certain de minimis errors under paragraph (e) of this section, the lower small business limitations under paragraph (f) of this section, the penalty for intentional disregard under paragraph (g) of this section, any adjustment for inflation under paragraph (i) of this section, or the reasonable cause waiver under § 301.6724–1(a).

(i) Example 1. Corporation T files timely 10,000 Forms 1099–INT (relating to payments of interest) for 2018 by February 28, 2019. The 10,000 returns are all the information returns that T is required to file during the 2019 calendar year. Of the returns filed, 70 contained incorrect information. T corrects the failures on July 12, 2019. No penalty is imposed for 50 of the failures (that is, the greater of 10 or .005 x 10,000 = 50) even though the total failures, 70, exceed the number to which the de minimis exception may apply. The $100 penalty under paragraph (b)(2) of this section is imposed, in lieu of $250, for the remaining 20 failures, which were corrected after 30 days but on or before August 1, resulting in a total penalty of $2000 ($100 × 20 = $2000).

(ii) Example 2. Corporation U files timely 9,500 Forms 1099–INT for 2018 by February 28, 2019. Fifty of these returns contain incorrect information with respect to which U files correct information on August 1, 2019. U also files 500 Forms 1099–INT for 2018 on August 30, 2019, after the required filing date. The 10,000 returns are all the information returns that U is required to file during the 2019 calendar year. The calculation of the de minimis exception is based on the 10,000 returns required to be filed during the 2019 calendar year even though 500 of the returns filed during the year were not filed timely. Therefore, the number of failures for which the de minimis exception applies is 50, and accordingly no penalty is imposed for the 50 Forms 1099–INT that were corrected on August 1, 2019. However, the $250 penalty under paragraph (a)(1) of this section is imposed for each failure to file timely, resulting in a total penalty of $125,000 ($250 × 500 = $125,000).

(iii) Example 3. Corporation V files timely 9,950 Forms 1099–INT for 2018 by February 28, 2019. However, V fails to file timely 50 of its Forms 1099–INT. The 10,000 returns are all the information returns that V is required to file during the 2019 calendar year. Upon discovering the error, V files the 50 returns within 30 days of February 28, 2019. The 50 returns are complete and correct except that V fails to include the taxpayer identification numbers of the payees on the returns. V files corrected returns on August 1, 2019. Absent application of the de minimis exception, the penalty imposed for the failure to include correct information would be $5,000 ($100 x 50 = $5,000). Because the incorrect returns are corrected on August 1, the 50 forms are treated under the de minimis exception as originally filed with correct information, and therefore no penalty is imposed under paragraph (a) of this section for the failure to include correct information. Nevertheless, the penalty under paragraph (a) of this section is imposed for the failure to file timely the 50 returns because the de minimis exception does not apply to the penalty for the failure to file timely. Hence, a penalty of $2,500 ($50 × 50 = $2500) is imposed.

(iv) Example 4. Corporation W files timely 100 Forms 1099–DIV and files an additional 50 Forms 1099–DIV late, but within 30 days of February 28, 2019. These are all the information returns that W was required to file during the 2019 calendar year. W discovers errors on 10 of the returns that were filed timely, and on 5 of the returns that were filed late. W corrects all the errors on August 1. The de minimis exception applies to 10 of the corrected returns. The exception will be allocated to the 10 returns that were filed timely with incorrect information, because that allocation is most favorable to W (that is, applying the exception to a return filed late with incorrect information would save W $50, by reducing the penalty on that return from $100 to $50, but applying the exception to a return filed timely would save W $100, by reducing the penalty on that return from $100 to $0). (See paragraph (b)(4) of this section.)

(4) *Nonapplication to returns not due on January 31, February 28, or March 15.* The exception for a de minimis number of failures provided in paragraph (d)(1) of this section does not apply to failures with respect to returns that are not due on January 31, February 28, or March 15 (for example, Forms 8300 reporting certain cash payments of $10,000 or more). Nevertheless, the returns that are not due on January 31, February 28, or March 15 are included in the total number of all information returns that the filer is required to file during a year for purposes of calculating the number of the returns subject to the de minimis exception under paragraph (d)(2) of this section.

(e) *Safe harbor exception for certain de minimis errors*—(1) *In general.* Except as provided in paragraph (e)(3) or (g)(4) of this section, the penalty under section 6721(a) and paragraph (a) of this section is not imposed for a failure described in section 6721(a)(2)(B) and paragraph (a)(2)(ii) of this section (failure to include correct information on information return) when the failure relates to an incorrect dollar amount and is a de minimis error. When this safe harbor applies to an information return and the information return was otherwise correct and timely filed, no correction is required and, for purposes of this section, the information return is treated as having been filed with all of the correct required information.

(2) *Definition of de minimis error.* For the definition of de minimis error, see § 301.6722–1(d)(2).

(3) *Election to override the safe harbor exception.* The safe harbor exception provided for by paragraph (e)(1) of this section does not apply to any information return if the incorrect dollar amount that would qualify as a de minimis error for purposes of this paragraph (e) relates to an amount with respect to which an election has been made (and has not been revoked) under section 6722(c)(3)(B) and § 301.6722–

1(d)(3). See § 301.6722–1(d)(3) for additional rules relating to the election under section 6722(c)(3)(B) and § 301.6722–1(d)(3), including rules relating to the revocation of the election and the inapplicability of the election to certain information. See § 301.6724–1(h) for rules relating to waiver of the section 6721 penalty in cases where the safe harbor exception provided for by paragraph (e)(1) of this section does not apply because of an election under § 301.6722–1(d)(3).

(f) *Lower limitations on the $3,000,000 maximum penalty amount with respect to persons with gross receipts of not more than $5,000,000*—(1) *In general.* If a person meets the gross receipts test (as defined in paragraph (f)(2) of this section) for any calendar year, the total amount of the penalty imposed on such person for all failures described in section 6721(a)(2) and paragraph (a)(2) of this section during such calendar year shall not exceed $1,000,000. The total amount of the penalty imposed under paragraph (b)(1) of this section for failures corrected within 30 days shall not exceed $175,000 for such calendar year. The total amount of the penalty imposed under paragraph (b)(2) of this section for failures corrected after 30 days but on or before August 1 shall not exceed $500,000 for such calendar year.

* * * * *

(g) *Higher penalty for intentional disregard of requirement to file timely correct information returns*—(1) *Application of section 6721(e).* If a failure is due to intentional disregard of the requirement to file timely or to include correct information on a return as described in paragraph (h) of this section, the amount of the penalty imposed under paragraph (a) of this section shall be determined under paragraph (g)(4) of this section.

* * * * *

(4) *Amount of the penalty.* If one or more failures to file timely or to include correct information are due to intentional disregard of the requirement to file timely or to include correct information, then, with respect to each such failure determined under this paragraph (g)—

(i) Paragraphs (b), (d), (e), and (f) of this section shall not apply;

(ii) The $3,000,000 limitation under paragraph (a) of this section shall not apply, and the penalty under this paragraph (g) shall not be taken into account in applying the $3,000,000 limitation (or any similar limitation under paragraph (b) or (f) of this section) to penalties not determined under this paragraph (g);

(iii) The penalty imposed under paragraph (a) of this section shall be $500 or, if greater, the statutory percentage; and

(iv) The term ''statutory percentage'' means—

(A) In the case of a return other than a return required under section 6045(a), 6041A(b), 6050H, 6050I, 6050J, 6050K, 6050L, or 6050V, 10 percent of the aggregate dollar amount of the items required to be reported correctly;

(B) In the case of a return required to be filed by section 6045(a), 6050K, or 6050L, 5 percent of the aggregate dollar amount of the items required to be reported correctly;

(C) In the case of a return required to be filed under section 6050I(a), for any transaction (or related transactions), the greater of $25,000 or the amount of cash (within the meaning of section 6050I(d)) received in such transaction to the extent the amount of such cash does not exceed $100,000; or

(D) In the case of a return required to be filed under section 6050V, 10 percent of the value of the benefit of any contract with respect to which information is required to be included on the return.

(5) *Computation of the penalty; aggregate dollar amount of the items required to be reported correctly.* The aggregate dollar amount used in computing the penalty under this paragraph (g) is the amount that is not reported or is reported incorrectly. If the intentional disregard relates to a dollar amount, the statutory percentage is applied to the difference between the dollar amount reported and the amount required to be reported correctly. If the intentional disregard relates to any other item on the return, the statutory percentage is applied to the aggregate amount of items required to be reported correctly. In determining the aggregate amount of items required to be reported correctly, no item shall be taken into account more than once. For example, if a filer willfully fails to file a Form 1099–INT on which $800 of interest and $160 of Federal income tax withheld (that is, backup withholding) is required to be reported, only the $800 amount is taken into account in computing the penalty.

(6) *Examples.* The provisions of this paragraph (g) may be illustrated by the following examples, which do not take into account any adjustments for inflation under paragraph (i) of this section:

(i) Example 1. On December 1, 2018, Automobile dealer P receives $55,000 from an individual for the purchase of an automobile in a transaction subject to reporting under section 6050I. The individual presents documents to P that identify him as ''John Doe.'' However, P completes the Form 8300 (relating to cash received in a trade or business) and reflects the name of a cartoon character as the filer. Because P knew at the time of filing the Form 8300 that the filer's name was not the name of the cartoon character, he willfully failed to include correct information as described under paragraph (g)(2) of this section. Therefore, the penalty under paragraph (g)(4) of this section is imposed for the intentional disregard of the requirement to include correct information. The amount used in computing the penalty under paragraph (g)(5) of this section is $55,000 (that is, the amount required to be reported on the return with respect to which the payee is not correctly identified). The amount of the penalty determined under paragraph (g)(4)(iv)(C) of this section is $55,000 (that is, the greater of $25,000 or the amount of cash received in the transaction up to $100,000).

(ii) Example 2. On December 1, 2018, Individual B contacts his agent, F, to act as his intermediary in the purchase of an automobile. B gives F $20,000 and requests F to purchase the automobile in F's name, which F does. F prepares the Form 8300 as required under section 6050I, but in the area designated for the name of the filer, F writes ''confidential.'' Because F knew at the time the return was filed that it contained incomplete information, the penalty under paragraph (g)(4) of this section is imposed for the intentional disregard of the requirement to include correct information. The amount used in computing the penalty under paragraph (g)(5) of this section is $20,000 (that is, the amount required to be reported on the return with respect to which the payee is not correctly identified). The amount of the penalty determined under paragraph (g)(4)(iv)(C) of this section is $25,000 (that is, the greater of $25,000 or the amount of cash received in the transaction up to $100,000).

(iii) Example 3. Corporation M deliberately does not include $5,000 of dividends on a Form 1099–DIV (relating to payments of dividends) on which a total of $200,000 (including the $5,000 dividends) is required to be reported under section 6042(a). Because the failure was deliberate, Corporation M's failure is due to intentional disregard of the requirement to include correct information. Accordingly, the amount of the penalty imposed under paragraph (a) is determined under paragraph (g)(4) of this section. Because the Form 1099–DIV is required to be filed under section 6042(a), under paragraph (g)(4)(iv)(A) the amount of the penalty with respect to such failure is 10 percent of the aggregate dollar amount of the items that were required to be but that were not reported correctly. Under paragraph (g)(5) of this section, $5,000 is the difference between the dollar amount reported and the amount required to be reported correctly. Therefore, the amount of the penalty is $500 ($5,000 x .10 = $500).

(iv) Example 4. Form 8027 requires certain large food and beverage establishments to report certain information with respect to tips. The form requires (among other things) that the establishment report its gross receipts from food and beverage operations. Establishment A, in intentional disregard of

the information reporting requirement, reported gross receipts of $1,000,000, when the correct amount was $1,500,000. The significance of the gross receipts reporting requirement is that section 6053(c)(3)(A) requires an establishment to allocate as tips among its employees the excess of 8 percent of its gross receipts over the aggregate amount reported by employees to the establishment as tips under section 6053(a). A's misstatement of its gross receipts caused A to show $80,000 on the Form 8027 as 8 percent of its gross receipts, rather than the correct amount of $120,000. A correctly reported the amount of tips reported to it by employees under section 6053(a) as $80,000. Thus A reported the excess of 8 percent of its gross receipts over tips reported to it as zero, rather than as the correct amount of $40,000. The requirement of reporting gross receipts is considered merely a step in the computation of the excess of 8 percent of gross receipts over tips reported to A under section 6053(a), so that the penalty for intentional disregard will be $4,000 (that is, 10 percent of the difference between the $40,000 required to be reported as the excess of 8 percent of gross receipts over tips reported under section 6053(a), and the zero amount actually reported).

(h) *Definitions*—(1) *Information return.* For purposes of this section, the term ''information return'' has the same meaning as ''information return'' as defined in section 6724(d)(1), including any statement described in paragraph (h)(2) of this section, any return described in paragraph (h)(3) of this section, and any other items described in paragraph (h)(4) of this section.

(2) * * *

(x) Section 408(i) (relating to reports with respect to individual retirement accounts or annuities on Form 1099–R, ''Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.'');

(xi) Section 6047(d) (relating to reports by employers, plan administrators, etc., on Form 1099–R); or

(xii) Section 6035 (relating to basis information with respect to property acquired from decedents, generally Form 8971, ''Information Regarding Beneficiaries Acquiring Property From a Decedent'' and the Schedule(s) A required to be filed along with it).

(3) * * *

(xvii) Section 1060(b) (relating to reporting requirements of transferors and transferees in certain asset acquisitions, generally reported on Form 8594, ''Asset Acquisition Statement''), or section 1060(e) (relating to information required in the case of certain transfers of interests in entities);

(xviii) Section 4101(d) (relating to information reporting with respect to fuel oils);

* * * * *

(xxiv) Section 6055 (relating to information returns reporting minimum essential coverage);

(xxv) Section 6056 (relating to information returns reporting on offers of health insurance coverage by applicable large employer members); or

(xxvi) Section 6050Y (relating to returns relating to certain life insurance contract transactions).

(4) *Other items.* The term information return also includes any form, statement, or schedule required to be filed with the Internal Revenue Service with respect to any amount from which tax is required to be deducted and withheld under chapter 3 of the Internal Revenue Code (or from which tax would be required to be so deducted and withheld but for an exemption under the Internal Revenue Code or any treaty obligation of the United States), generally Forms 1042–S, ''Foreign Person's U.S. Source Income Subject to Withholding,'' and 8805, ''Foreign Partner's Information Statement of Section 1446 Withholding Tax.'' The provisions of this paragraph (h)(4) referring to Form 8805, shall apply to partnership taxable years beginning after May 18, 2005, or such earlier time as the regulations under §§ 1.1446–1 through 1.1446–5 of this chapter apply by reason of an election under § 1.1446–7 of this chapter.

* * * * *

(6) *Filer.* For purposes of this section the term ''filer'' means a person that is required to file an information return as defined in paragraph (h)(1) of this section under the applicable information reporting section described in paragraphs (h)(2) through (4) of this section.

(i) *Adjustment for inflation.* Each of the dollar amounts under paragraphs (a), (b), (f) (other than (f)(2)), and (g) of this section and paragraphs (a), (b), (d) (other than paragraph (2)(A)), and (e) of section 6721 shall be adjusted for inflation pursuant to section 6721(f).

(j) *Applicability date.* This section applies with respect to information returns required to be filed on or after January 1 of the calendar year immediately following the date of publication of a Treasury decision adopting these rules as final regulations in the **Federal Register**.

■ **Par. 6.** Section 301.6722–1 is amended by:

■ 1. Revising paragraphs (a)(1), (a)(2)(ii), and (b)(2)(i).

■ 2. In paragraphs (b)(2)(ii) and (iii), removing the comma at the end of each paragraph and adding a semicolon in its place.

■ 3. Revising paragraph (b)(3) introductory text.

■ 4. In paragraph (b)(3), designate *Examples 1* and *2* as paragraphs (b)(3)(i) and (ii).

■ 5. Revising paragraph (c)(1).

■ 6. Redesignating paragraphs (c)(2)(i), (ii), and (iii) as paragraphs (c)(2)(ii), (iii), and (iv).

■ 7. Adding a new paragraph (c)(2)(i).

■ 8. Revising newly redesignated paragraphs (c)(2)(ii) and (iii).

■ 9. Redesignating paragraphs (d) and (e) as paragraphs (e) and (g).

■ 10. Adding a new paragraph (d).

■ 11. Revising newly redesignated paragraphs (e)(1), (e)(2) introductory text, and (e)(2)(xxxiii) and (xxxiv).

■ 12. Adding paragraphs (e)(2)(xxxv), (xxxvi), and (xxxvii), (e)(4), and (f).

■ 13. Revising newly redesignated paragraph (g).

The revisions and additions read as follows:

§ 301.6722–1 Failure to furnish correct payee statements.

(a) *Imposition of penalty*—(1) *General rule.* A penalty of $250 is imposed for each payee statement (as defined in section 6724(d)(2) and paragraph (e)(2) of this section) with respect to which a failure (as defined in section 6722(a) and paragraph (a)(2) of this section) occurs. No more than one penalty will be imposed under this paragraph (a) with respect to a single payee statement even though there may be more than one failure with respect to such statement. However, the penalty shall apply to failures on composite substitute payee statements as though each type of payment and other required information were furnished on separate statements. A ''composite substitute payee statement'' is a single document created by a filer to reflect several types of payments made to the same payee. The total amount imposed on any person for all failures during any calendar year with respect to all payee statements shall not exceed $3,000,000. See section 6722(e) and paragraph (c) of this section for higher penalties when a failure is due to intentional disregard of the requirement to furnish timely correct payee statements. See paragraph (d) of this section for a safe harbor exception for certain de minimis errors. See paragraph (f) of this section for inflation adjustments to penalty amounts. See § 301.6724–1(a)(1) for a waiver of the penalty for a failure that is due to reasonable cause.

(2) * * *

(ii) A failure to include all of the information required to be shown on a payee statement or the inclusion of incorrect information (''failure to include correct information''). A failure to furnish timely includes a failure to

furnish a written statement to the payee in a statement mailing as required under sections 6042(c), 6044(e), 6049(c), and 6050N(b), as well as a failure to furnish the statement on a form acceptable to the Internal Revenue Service. Except as provided in paragraph (b) or (d) of this section, a failure to include correct information encompasses a failure to include the information required by applicable information reporting statutes or by any administrative pronouncements issued thereunder (such as regulations, revenue rulings, revenue procedures, or information reporting forms).

(b) * * *

(2) * * *

(i) A dollar amount, except as provided in paragraph (d) of this section;

* * * * *

(3) *Examples.* The provisions of this paragraph (b) may be illustrated by the following examples which do not take into account any possible application of the penalty for intentional disregard under paragraph (c) of this section, the safe harbor exception for certain de minimis errors under paragraph (d) of this section, or the reasonable cause waiver under § 301.6724–1(a):

* * * * *

(c) *Higher penalty for intentional disregard of requirement to furnish timely correct payee statements*—(1) *Application of section 6722(e).* If a failure is due to intentional disregard of the requirement to furnish timely correct payee statements, the amount of the penalty shall be determined under paragraph (c)(2) of this section. Whether a failure is due to intentional disregard of the requirement to furnish timely correct payee statements is based upon the facts and circumstances surrounding the failure. The facts and circumstances considered include those under § 301.6721–1(g)(3), which shall apply in determining whether a failure under this section is due to intentional disregard.

(2) * * *

(i) Paragraph (d) of this section shall not apply;

(ii) The $3,000,000 limitation under paragraph (a) of this section shall not apply and the penalty under this paragraph (c)(2) shall not be taken into account in applying the $3,000,000 limitation to penalties not determined under this paragraph (c)(2);

(iii) The penalty imposed under paragraph (a) of this section shall be $500 or, if greater, the statutory percentage; and

* * * * *

(d) *Safe harbor exception for certain de minimis errors*—(1) *In general.* Except as provided in paragraphs (c) and (d)(3) of this section, the penalty under section 6722(a) and paragraph (a) of this section is not imposed for a failure described in section 6722(a)(2)(B) and paragraph (a)(2)(ii) of this section (failure to include correct information on payee statement) when the failure relates to an incorrect dollar amount and is a de minimis error. When this safe harbor applies to a payee statement and the payee statement was otherwise correct and timely furnished no correction is required and, for purposes of this section, the payee statement is treated as having been furnished with all of the correct required information.

(2) *Definition of de minimis error.* For purposes of paragraph (d) of this section, an error in a dollar amount is de minimis if the difference between any single amount in error and the correct amount is not more than $100, and, if the difference is with respect to an amount of tax withheld, it is not more than $25. For purposes of this paragraph (d)(2), tax withheld includes any amount required to be shown on an information return or payee statement (as defined in section 6724(d)(1) and (d)(2), respectively) withheld under section 3402, as well as any such amount that is creditable under sections 27, 31, 33, or 1474.

(3) *Election to override the safe harbor exception*—(i) *In general.* Except as provided in paragraphs (d)(3)(vi) and (vii) of this section, the safe harbor exception provided for by this paragraph (d) does not apply to any payee statement if the person to whom the statement is required to be furnished (the payee) makes an election that the safe harbor not apply with respect to the statement.

(ii) *Timing of election.* The payee must elect no later than the later of 30 days after the date on which the payee statement is required to be furnished to the payee, or October 15 of the calendar year, to receive a correct payee statement required to be furnished in that calendar year without having the safe harbor under paragraph (d)(1) of this section apply. The date of an election is the date the election is received by the filer. For purposes of this section, the provisions of section 7502 relating to timely mailing treated as timely delivery apply in determining the date an election is considered to be received by the filer, treating delivery to the filer as if the filer were an agency, officer, or office under such section. The election shall remain in effect for all subsequent years unless revoked under paragraph (d)(3)(vii) of this section.

(iii) *Manner for making the election.* Except as provided in paragraph (d)(3)(v) of this section, the payee must make the election by delivering the election in writing to the filer. Except as provided in paragraph (d)(3)(v) of this section, the written election must be made in writing on paper. The payee may deliver the election in person, by mail by United States Postal Service, or by a designated delivery service as defined under section 7502(f)(2). If the filer has not otherwise provided an address under paragraph (d)(3)(v) of this section, the payee shall send the written election to the filer's address appearing on the payee statement furnished by the filer to the payee with respect to which the election is being made or as directed by that person upon appropriate inquiry by the payee. The written election must:

(A) Clearly state that the payee is making the election;

(B) Provide the payee's name, address, and taxpayer identification number (TIN) (as defined in section 7701(a)(41) of the Internal Revenue Code) to the filer;

(C) If the payee wants the election to apply only to specific types of statements, identify the type of payee statement(s) and account number(s), if applicable, to which the election applies (for example, Form 1099–DIV, ''Dividends and Distributions''); and

(D) Provide any other information required by the Internal Revenue Service in forms, instructions, or publications.

(iv) *Payee statements to which the election applies.* An election by a payee under paragraph (d)(3)(i) of this section applies to all types of payee statements the filer is required to furnish to the payee, unless the payee specifies otherwise on the election under paragraph (d)(3)(iii)(C) of this section.

(v) *Reasonable alternative manner for making the election in cases of notification by the filer*—(A) *In general.* If the filer satisfies the requirements of paragraph (d)(3)(v)(B) of this section, and provides for a reasonable alternative manner as described in paragraph (d)(3)(v)(E) of this section, a payee may decide to make the election under paragraph (d)(3)(i) of this section pursuant to that reasonable alternative manner.

(B) *Notification of payee of reasonable alternative manner for making election.* The filer may elect to provide notification to the payee of a reasonable alternative manner to make the election under paragraph (d)(3)(i) of this section, as described in paragraph (d)(3)(v)(E) of this section. To provide a valid notification under this paragraph

(d)(3)(v)(B), the filer must provide notification to the payee that:

(*1*) Is in writing (either on paper or in electronic format);

(*2*) Is timely provided to the payee under paragraph (d)(3)(v)(D) of this section;

(*3*) Explains to the payee to whom that filer is required to furnish a payee statement of the payee's ability to elect, under paragraph (d)(3)(i) of this section, that the safe harbor exceptions for de minimis errors not apply, and of the payee's ability to choose to make the election using the default method under paragraph (d)(3)(iii) of this section;

(*4*) Provides an address to which the payee may send an election under paragraphs (d)(3)(i) and (iii) of this section;

(*5*) Provides any reasonable alternative manner or manners, as described in paragraph (d)(3)(v)(E) of this section, that the filer is making available for the payee to make the election under paragraph (d)(3)(i) of this section; and

(*6*) Describes the information required for making the election described by paragraphs (d)(3)(iii)(A) through (D) of this section. Solely for purposes of the reasonable alternative manner, the notification may provide that some or all of the information described in paragraph (d)(3)(iii)(B) of this section is not required and may provide that the provision of an account number as referenced in paragraph (d)(3)(iii)(C) of this section is required if the payee decides to use the reasonable alternative manner for the election.

(C) *Notification of revocation procedures.* A notification under this paragraph (d)(3)(v) may also provide the procedures for making a revocation of an election under paragraph (d)(3)(vii) of this section. Solely for purposes of the reasonable alternative manner, the notification may provide that some or all of the information described in paragraph (d)(3)(vii)(B) of this section is not required and may provide that the provision of an account number as referenced in paragraph (d)(3)(vii)(E) of this section is required if the payee decides to use a reasonable alternative manner for making a revocation.

(D) *Time for providing notification of reasonable alternative manner for making payee election.* A notification under this paragraph (d)(3)(v) will be timely under paragraph (d)(3)(v)(B)(*2*) of this section if:

(*1*) The notification is provided with, or at the time of, the furnishing of the payee statement; or

(*2*) The filer previously provided a valid notification under paragraph (d)(3)(v) of this section to the payee with, or at the time of, the furnishing of a payee statement associated with a particular account, in which case notification will be considered to have been timely provided with respect to subsequent payee statements associated with that particular account. If the filer wishes to provide for a different reasonable alternative manner than a previous reasonable alternative manner, the filer must provide new notification in compliance with the timeliness rule of paragraph (d)(3)(v)(D)(*1*) of this section, and must accept payee elections under the previous reasonable alternative manner for a period of at least 60 days after the receipt of the new notification by the payee.

(E) *Reasonable alternative manner.* A reasonable alternative manner described in a notification under paragraph (d)(3)(v)(B) of this section may include that a payee election under paragraph (d)(3)(i) of this section may be made electronically (for example, via email or website) or telephonically. The reasonable alternative manner may not impose any prerequisite, condition, or time limitation on, or otherwise limit, the payee's ability to make an election under paragraph (d)(3)(iii) of this section, except as described in paragraphs (d)(3)(ii) and (iii) of this section; it may only offer a reasonable alternative manner or manners for making this election under this paragraph (d)(3)(v).

(vi) *Election not available for certain information.* The election to override the safe harbor exception provided for by paragraph (d)(3)(i) of this section is not available with respect to information that may not be altered under specific information reporting rules. See, for example, § 1.6045–4(i)(5) of this chapter.

(vii) *Revocation of election.* The payee may revoke a prior election by submitting a revocation to the filer. The effect of a revocation of a prior election is that the safe harbor for certain de minimis errors will apply to the payee statements that the payee identifies and that are furnished or are due to be furnished after the revocation is received. The revocation will remain in effect until the payee makes a valid and timely election under paragraph (d)(3)(i) of this section. The date of a revocation is the date the revocation is received by the filer. For purposes of this section, the provisions of section 7502 relating to timely mailing treated as timely delivery apply in determining the date a revocation is considered to be received by the filer, treating delivery to the filer as if the filer were an agency, officer, or office under such section. The revocation must be made in the same manner or manners described for making the election, that is pursuant to either paragraph (d)(3)(iii) or (v) of this section, as the payee chooses if paragraph (d)(3)(v) of this section is applicable. Except as provided under paragraph (d)(3)(v)(B)(*6*) of this section, the revocation must:

(A) Clearly state that the payee is revoking the payee's prior election;

(B) Provide the payee's name, address, and TIN to the filer;

(C) Provide the name of the filer;

(D) Identify the type of payee statement(s) (for example, Form 1099–DIV) to which the revocation applies;

(E) Identify the account number(s), if applicable, to which the revocation applies; and

(F) Provide any other information required by the Internal Revenue Service in forms, instructions or publications.

(viii) *Reasonable cause.* See § 301.6724–1(h) for rules relating to waiver of the section 6722 penalty in cases where the safe harbor exception provided for by paragraph (d)(1) of this section does not apply because of an election under paragraph (d)(3)(i) of this section.

(4) *Record retention.* To facilitate proof of compliance with reporting and other obligations under the internal revenue laws, filers must retain records of any election or revocation by the payee under paragraph (d)(3)(i) or (vii) of this section, respectively, and any notification made under paragraph (d)(3)(v) of this section for as long as the contents of the election, revocation, or notification may be material in the administration of any internal revenue law. For rules regarding record retention, see section 6001 and § 1.6001–1 of this chapter. For additional procedures applicable to record retention in the context of electronic storage, see Rev. Proc. 97–22, 1997–1 C.B. 652, Rev. Proc. 98–25, 1998–1 C.B. 689, and any subsequently published guidance.

(5) *Examples.* The provisions of paragraphs (d)(1) through (4) of this section may be illustrated by the following examples, which do not address any possible application of the penalty for intentional disregard under paragraph (c) of this section or the reasonable cause waiver under § 301.6724–1(a):

(i) Example 1. (A) Filer W is required to file with the IRS by February 28, 2019, and furnish to Payee A by February 15, 2019, Form 1099–B ''Proceeds From Broker and Barter Exchange Transactions,'' because Filer W is a broker who sold stocks on behalf of Payee A resulting in proceeds of $5000 during calendar year 2018. Filer W properly

withheld an amount of $1736 under applicable backup withholding rules because Payee A failed to furnish Payee A's TIN to Filer W. On the Form 1099–B, Filer W reports as follows: Box 1d, Proceeds, $4900; and Box 4, Federal income tax withheld, $1761. Filer W otherwise correctly and timely files and furnishes the Form 1099–B. Payee A does not make an election under paragraph (d)(3)(i) of this section.

(B) The safe harbor exception for de minimis errors provided for by paragraph (d)(1) of this section applies, because the differences between each of the amounts reported in error and the correct amounts are not more than the applicable limits. The error in the dollar amount reported in Box 1d, Proceeds, is de minimis because the difference between the amount in error ($4900) and the correct amount ($5000) is not more than $100; it is exactly $100. The error in the dollar amount reported in Box 4, Federal income tax withheld, is de minimis because the $25 difference between the amount in error ($1761) and the correct amount ($1736) is not more than $25, the limit for an error with respect to an amount reported for tax withheld.

(ii) Example 2. (A) The facts are the same as in *Example 1* in paragraph (d)(5)(i) of this section, except that Filer W reports $1710 as the amount in Box 4, Federal income tax withheld.

(B) The safe harbor exception for de minimis errors provided for by paragraph (d)(1) of this section does not apply because the Form 1099–B contains a failure that is not a de minimis error. The difference between the amount in error ($1710) and the correct amount ($1736) is $26, which is more than the $25 limit for de minimis errors with respect to an amount reported for tax withheld.

(iii) Example 3. (A) In 2019, Filer X provides Payee B with valid notification of a reasonable alternative manner under paragraph (d)(3)(v) of this section for making the payee election under paragraph (d)(3)(i) of this section. Payee B timely elects pursuant to the reasonable alternative manner during 2019. Payee B elects with respect to all payee statements that Filer X is required to furnish to Payee B. In January 2020, Filer X decides to provide for a different, but also valid, reasonable alternative manner; Filer X provides notification of this different reasonable alternative manner to Payee B, and Payee B receives notification of this different reasonable alternative manner, pursuant to paragraph (d)(3)(v)(B) of this section, on January 16, 2020.

(B) Payee B decides to revoke Payee B's prior election, with respect to the Forms 1099–DIV that Filer X is required to furnish to Payee B. Under paragraph (d)(3)(vii) of this section, Payee B may provide the revocation to Filer X in any of three different manners. First, Payee B may provide the revocation to Filer X in the same manner as if Payee B were making an election under the default manner of paragraph (d)(3)(iii) of this section; Payee B may do so at any time. Second, having received notification from Filer X of the different reasonable alternative manner on January 16, 2020, Payee B may provide the revocation to Filer X in the same manner as if Payee B were making an election under the different reasonable alternative manner pursuant to paragraph (d)(3)(v) of this section. Third, because Filer X previously provided notification of a reasonable alternative manner (2019 alternative) before providing notification of a different reasonable alternative manner on January 16, 2020, (2020 alternative), Payee B may provide the revocation to Filer X in the same manner as if Payee B were making an election under the previous reasonable alternative manner (2019 alternative); Payee B may do so for a period of 60 days after January 16, 2020, pursuant to paragraph (d)(3)(v)(D)(*2*) of this section.

(e) *Definitions*—(1) *Payee.* See § 301.6721–1(h)(5) for the definition of ''payee.''

(2) *Payee statement.* For purposes of this section the term ''payee statement'' has the same meaning as payee statement as defined by section 6724(d)(2), including any statement required to be furnished under—

* * * * *

(xxxiii) Section 6055 (relating to information returns reporting minimum essential coverage);

(xxxiv) Section 6056 (relating to information returns reporting on offers of health insurance coverage by applicable large employer members);

(xxxv) Section 6035, other than a statement described in section 6724(d)(1)(D), (relating to basis information with respect to property acquired from decedents, generally Schedule A of Form 8971, ''Information Regarding Beneficiaries Acquiring Property From a Decedent'');

(xxxvi) Section 6050Y(a)(2), 6050Y(b)(2), or 6050Y(c)(2) (relating to certain life insurance contract transactions); or

(xxxvii) Section 6226(a)(2) (regarding statements relating to alternative to payment of imputed underpayment by a partnership) or under any other provision of this title which provides for the application of rules similar to section 6226(a)(2).

* * * * *

(4) *Filer.* For purposes of this section the term ''filer'' means a person that is required to furnish a payee statement as defined in paragraphs (e)(2) and (3) of this section under the applicable information reporting section described in paragraphs (e)(2) and (3) of this section.

(f) *Adjustment for inflation.* Each of the dollar amounts under paragraphs (a), (b), and (c) of this section and paragraphs (a), (b), (d)(1), and (e) of section 6722 shall be adjusted for inflation pursuant to section 6722(f).

(g) *Applicability date.* This section applies with respect to payee statements required to be furnished on or after January 1 of the calendar year immediately following the date of publication of a Treasury decision adopting these rules as final regulations in the **Federal Register**.

■ **Par. 7.** Section 301.6724–1 is amended by:

■ 1. Revising paragraphs (a)(1) and (a)(2)(ii).

■ 2. Designating the undesignated paragraph following paragraph (a)(2)(ii) as paragraph (a)(2)(iii) and revising newly designated paragraph (a)(2)(iii).

■ 3. Revising paragraphs (b) introductory text and (b)(2)(i) and (ii).

■ 4. Designating the undesignated paragraph following paragraph (b)(2)(ii) as paragraph (b)(3).

■ 5. Revising paragraphs (c)(3)(ii), (e)(1) introductory text, (e)(1)(i), (e)(1)(vi)(E) and (F), (f)(1) introductory text, (f)(1)(i), (f)(5)(i) and (ii), (g), (h), (k), (m) introductory text, and (m)(1).

■ 6. Adding paragraph (o).

The revisions and additions read as follows:

§ 301.6724–1 Reasonable cause.

(a) *Waiver of the penalty*—(1) *General rule.* The penalty for a failure relating to an information reporting requirement as defined in paragraph (j) of this section is waived if the failure is due to reasonable cause and is not due to willful neglect.

(2) * * *

(ii) The failure arose from events beyond the filer's control (''impediment''), as described in paragraph (c) of this section.

(iii) Moreover, the filer must establish that the filer acted in a responsible manner, as described in paragraph (d) of this section, both before and after the failure occurred. Thus, if the filer establishes that there are significant mitigating factors for a failure but is unable to establish that the filer acted in a responsible manner, the mitigating factors will not be sufficient to obtain a waiver of the penalty. Similarly, if the filer establishes that a failure arose from an impediment but is unable to establish that the filer acted in a responsible manner, the impediment will not be sufficient to obtain a waiver of the penalty. See paragraph (g) of this section for the reasonable cause safe harbor for persons who exercise due diligence. See paragraph (h) of this section for the reasonable cause safe harbor after an election under section 6722(c)(3)(B) and § 301.6722–1(d)(3).

(b) *Significant mitigating factors.* In order to establish reasonable cause under this paragraph (b), the filer must satisfy paragraph (d) of this section and must show that there are significant

mitigating factors for the failure. See paragraph (c)(5) of this section for the application of this paragraph (b) to failures attributable to the actions of a filer's agent. The applicable mitigating factors include, but are not limited to—

* * * * *

(2) * * *

(i) Whether the filer has incurred any penalty under § 301.6721–1, § 301.6722–1, or § 301.6723–1 in prior years for the failure; and

(ii) If the filer has incurred any such penalty in prior years, the extent of the filer's success in lessening its error rate from year to year.

* * * * *

(c) * * *

(3) * * *

(ii) The cost of filing on magnetic media was prohibitive as determined at least 45 days before the due date of the returns (without regard to extensions);

* * * * *

(e) *Acting in a responsible manner—special rules for missing TINs*—(1) *In general.* A filer that is seeking a waiver for reasonable cause under paragraph (c)(6) of this section will satisfy paragraph (d)(2) of this section with respect to establishing that a failure to include a TIN on an information return resulted from the failure of the payee to provide information to the filer (that is, a missing TIN) only if the filer makes the initial and, if required, the annual solicitations described in this paragraph (e) (''required solicitations''). For purposes of this section, a number is treated as a ''missing TIN'' if the number does not contain nine digits or includes one or more alpha characters (a character or symbol other than an Arabic numeral) as one of the nine digits. A solicitation means a request by the filer for the payee to furnish a correct TIN. See paragraph (f) of this section for the rules that a filer must follow to establish that the filer acted in a responsible manner with respect to providing incorrect TINs on information returns. See paragraph (e)(1)(vi)(A) of this section for alternative solicitation requirements. See paragraph (g) of this section for the safe harbor due diligence rules.

(i) *Initial solicitation.* An initial solicitation for a payee's correct TIN must be made at the time an account is opened. The term ''account'' includes accounts, relationships, and other transactions. However, a filer is not required to make an initial solicitation under this paragraph (e)(1)(i) with respect to a new account if the filer has the payee's TIN and uses that TIN for all accounts of the payee. For example, see § 31.3406(h)–3(a) of this chapter. If the account is opened in person, the initial solicitation may be made by oral or written request, such as on an account creation document. If the account is opened by mail, telephone, or other electronic means, the TIN may be requested through such communications. If the account is opened by the payee's completing and mailing an application furnished by the filer that requests the payee's TIN, the initial solicitation requirement is considered met. If a TIN is not received as a result of an initial solicitation, the filer may be required to make additional solicitations (''annual solicitations'').

* * * * *

(vi) * * *

(E) A filer is not required to make annual solicitations by mail on accounts with respect to which the filer has an undeliverable address, that is, where other mailings to that address have been returned to the filer because the address was incorrect and no new address has been provided to the filer.

(F) Except as provided in paragraphs (e)(1)(vi) (A) and (C) of this section, no more than two annual solicitations are required under this paragraph (e) in order for a filer to establish reasonable cause.

* * * * *

(f) *Acting in a responsible manner—special rules for incorrect TINs*—(1) *In general.* A filer that is seeking a waiver for reasonable cause under paragraph (c)(6) of this section will satisfy paragraph (d)(2) of this section with respect to establishing that a failure resulted from incorrect information provided by the payee or any other person (that is, inclusion of an incorrect TIN) on an information return only if the filer makes the initial and annual solicitations described in this paragraph (f). See paragraph (e)(1) of this section for the definition of the term ''solicitation.'' See paragraph (f)(5)(i) of this section for alternative solicitation requirements. See paragraph (g) of this section for the safe harbor due diligence rules.

(i) *Initial solicitation.* An initial solicitation for a payee's correct TIN must be made at the time the account is opened. The term ''account'' includes accounts, relationships, and other transactions. However, a filer is not required to make an initial solicitation under this paragraph (f)(1)(i) with respect to a new account if the filer has the payee's TIN and uses that TIN for all accounts of the payee. For example, see § 31.3406(h)–3(a) of this chapter. No additional solicitation is required after the filer receives the TIN unless the Internal Revenue Service or, in some cases, a broker notifies the filer that the TIN is incorrect. Following such notification the filer may be required to make an annual solicitation to obtain the correct TIN as provided in paragraphs (f)(1)(ii) and (iii) of this section.

* * * * *

(5) *Exceptions and limitations.* (i) The solicitation requirements under this paragraph (f) do not apply to the extent that an information reporting provision under which a return, as defined in § 301.6721–1(h), is filed provides specific requirements relating to the manner or the time period in which a TIN must be solicited. In that event, the requirements of this paragraph (f) will be satisfied only if the filer complies with the manner and time period requirement under the specific information reporting provisions and this paragraph (f), to the extent applicable.

(ii) An annual solicitation is not required to be made for a year under this paragraph (f) with respect to an account if no payments are made to the account for such year or if no return as defined in § 301.6721–1(h) is required to be filed for the account for such year.

* * * * *

(g) *Due diligence safe harbor*—(1) *In general.* A filer may establish reasonable cause with respect to a failure relating to an information reporting requirement as described in paragraph (j) of this section if the filer exercises due diligence with respect to failures described in sections 6721 through 6723.

(2) *Special rules relating to TINs*—(i) *Questions and answers.* The following questions and answers provide guidance on the exercise of due diligence for an exception to a penalty under sections 6721 through 6723 for a failure to provide a correct TIN on any information return as defined in § 301.6721–1(h), payee statement as defined in § 301.6722–1(e), document as described in § 301.6723–1(a)(4), or the failure merely to provide a TIN as described in § 301.6723–1(a)(4)(ii).

(ii) *General rule*—(A) *Q–1.* Is a filer subject to a penalty for a failure to provide a correct TIN on an information return with respect to a reportable interest or dividend payment if the payee has certified, under penalties of perjury, that the TIN furnished to the filer is the payee's correct number, the filer provided that number on an information return, and the number is later determined not to be the payee's correct number?

(B) *A–1.* A filer is not subject to a penalty for failure to provide the payee's

correct TIN on an information return, if the payee has certified, under penalties of perjury, that the TIN provided to the filer was his correct number, and the filer included such number on the information return before being notified by the Internal Revenue Service (IRS) (or a broker) that the number is incorrect.

(iii) *Due Diligence Defined for Accounts Opened and Instruments Acquired After December 31, 1983*—(A)(*1*) *Q–2.* In order for a filer of a reportable interest or dividend payment (other than in a window transaction) to be considered to have exercised due diligence in furnishing the correct TIN of a payee with respect to an account opened or an instrument acquired after December 31, 1983, what actions must the filer take?

(2) *A–2.* (*i*) In general, the filer of an account or instrument that is not a pre–1984 account nor a window transaction must use a TIN provided by the payee under penalties of perjury on information returns filed with the IRS to satisfy the due diligence requirement. Therefore, if a filer permits a payee to open an account without obtaining the payee's TIN under penalties of perjury and files an information return with the IRS with a missing or an incorrect TIN, the filer will be liable for the $250 penalty for the year with respect to which such information return is filed. However, in its administrative discretion, the IRS will not enforce the penalty with respect to a calendar year if the certified TIN is obtained after the account is opened and before December 31 of such year, provided that the filer exercises due diligence in processing such number, that is, the filer uses the same care in processing the TIN provided by the payee that a reasonably prudent filer would use in the course of the filer's business in handling account information such as account numbers and balances.

(*ii*) Once notified by the IRS (or a broker) that a number is incorrect, a filer is liable for the penalty for all prior years in which an information return was filed with that particular incorrect number if the filer has not exercised due diligence with respect to such years. A pre-existing certified TIN does not constitute an exercise of due diligence after the IRS or a broker notifies the filer that the number is incorrect unless the filer undertakes the actions described in § 31.3406(d)–5(d)(2)(i) of this chapter with respect to accounts receiving reportable payments described in section 3406(b)(1) and reported on information returns described in sections 6724(d)(1)(A)(i) through (iv).

(B)(*1*) *Q–3.* Is a filer as described in paragraph (g)(2)(iii)(A)(*2*) of this section liable for the penalty if the filer obtained a certified TIN from a payee but inadvertently processed the name or number incorrectly on the information return?

(*2*) *A–3.* Yes. The filer is liable for the penalty unless the filer exercised that degree of care in processing the TIN and name and in furnishing it on the information return that a reasonably prudent filer would use in the course of the filer's business in handling account information, such as account numbers and account balances.

(iv) *Special rules.* (A)(*1*) *Q–4.* With respect to an instrument transferred without the assistance of a broker, is a filer liable for the penalty for filing an information return with a missing or an incorrect TIN if the filer records on its books a transfer of a readily tradable instrument in a transaction in which the filer was not a party?

(*2*) *A–4.* Generally, a filer as described in paragraph (g)(2)(iv)(A)(*1*) of this section will be considered to have exercised due diligence with respect to a readily tradable instrument that is not part of a pre-1984 account with the filer if the filer records on its books a transfer in which the filer was not a party. This exception applies until the calendar year in which the filer receives a certified TIN from the payee.

(B)(*1*) *Q–5.* Is the filer described in paragraph (g)(2)(iv)(A)(*2*) of this section required to solicit the TIN of a payee of an account with a missing TIN in order to be considered as having exercised due diligence in a subsequent calendar year?

(*2*) *A–5.* There is no requirement on the filer to solicit the TIN in order to be considered to have exercised due diligence in a subsequent calendar year under the rule set forth in paragraph (g)(2)(iv)(A)(*2*) of this section.

(C)(*1*) *Q–6.* Is a filer as described in paragraph (g)(2)(iv)(A)(*1*) of this section considered to have exercised due diligence if the payee provides a TIN to the filer (whether or not certified), the filer uses that number on the information return filed for the payee, and the number is later determined to be incorrect?

(*2*) *A–6.* A filer as described in paragraph (g)(2)(iv)(A)(*1*) of this section who records on its books a transfer in which it was not a party is considered to have exercised due diligence under the rule set forth in paragraph (g)(2)(iv)(A)(*2*) of this section where the transfer is accompanied with a TIN provided that the filer uses the same care in processing the TIN provided by a payee that a reasonably prudent filer would use in the course of the filer's business in handling account information, such as account numbers and account balances. Thus, a filer will not be liable for the penalty if the filer uses the TIN provided by the payee on information returns that it files, even if the TIN provided by the payee is later determined to be incorrect. However, a filer will not be considered as having exercised due diligence under paragraph (g)(2)(iv)(A)(*2*) of this section after the IRS or a broker notifies the filer that the number is incorrect unless the filer undertakes the required additional actions described in paragraph (g)(2)(iii)(A)(*2*)(*ii*) of this section.

(D)(*1*) *Q–7.* Is a filer liable for a penalty for filing an information return with a missing or an incorrect TIN with respect to a post-1983 account or instrument if the filer could have met the due diligence requirements but for the fact that the filer incurred an undue hardship?

(*2*) *A–7.* A filer of a post-1983 account or instrument is not liable for a penalty under section 6721(a) for filing an information return with a missing or an incorrect TIN if the IRS determines that the filer could have satisfied the due diligence requirements but for the fact that the filer incurred an undue hardship. An undue hardship is an extraordinary or unexpected event such as the destruction of records or place of business of the filer by fire or other casualty (or the place of business of the filer's agent who under a pre-existing written contract had agreed to fulfill the filer's due diligence obligations with respect to the account subject to the penalty and there was no means for the obligations to be performed by another agent or the filer). Undue hardship will also be found to exist if the filer could have met the due diligence requirements only by incurring an extraordinary cost.

(E)(*1*) *Q–8.* How does a filer obtain a determination from the IRS that the filer has met the undue hardship exception to the penalty under section 6721(a) for the failure to include the correct TIN on an information return for the year with respect to which the filer is subject to the penalty?

(*2*) *A–8.* A determination of undue hardship may be established only by submitting a written statement to the IRS signed under penalties of perjury that sets forth all the facts and circumstances that make an affirmative showing that the filer could have satisfied the due diligence requirements but for the occurrence of an undue hardship. Thus, the statement must describe the undue hardship and make an affirmative showing that the filer

either was in the process of exercising or stood ready to exercise due diligence when the undue hardship occurred. A filer may request an undue hardship determination by submitting a written statement to the address provided with the notice proposing penalty assessment (for example, Notice 972CG) or the notice of penalty assessment (for example, CP15 or CP215), or as otherwise directed by the Internal Revenue Service in forms, instructions or publications.

(F)(*1*) *Q–9.* Is a pre-1984 account or instrument of a filer that is exchanged for an account or instrument of another filer as a result of a merger of the other filer or acquisition of the accounts or instruments of such filer transformed into a post-1983 account or instrument if the merger or acquisition occurs after December 31, 1983?

(*2*) *A–9.* No. A pre-1984 account or instrument that is exchanged for another account or instrument pursuant to a statutory merger or the acquisition of accounts or instruments is not transformed into a post-1983 account or instrument because the exchange occurs without the participation of the payee.

(G)(*1*) *Q–10.* May the acquiring taxpayer described in paragraph (g)(2)(iv)(F)(*2*) of this section rely upon the business records and past procedures of the merged filer or the filer whose accounts or instruments were acquired in order to establish that due diligence has been exercised on the acquired pre-1984 and post-1983 accounts or instruments?

(*2*) *A–10.* Yes. The acquiring filer may rely upon the business records and past procedures of the merged filer or of the filer whose accounts or instruments were acquired in order to establish due diligence to avoid the penalty under section 6721(a) with respect to information returns that have been or will be filed.

(H)(*1*) *Q–11.* To what extent may a filer rely on the due diligence rules set forth in §§ 35a.9999–1, 35a.9999–2, and 35a.9999–3 of this chapter in effect prior to January 1, 2001 (see §§ 35a.9999–1, 35a.9999–2, and 35a.9999–3 as contained in 26 CFR part 35a, revised April 1, 1999).

(*2*) *A–11.* A filer may rely on the due diligence rules set forth in §§ 35a.9999–1, 35a.9999–2, and 35a.9999–3 of this chapter in effect prior to January 1, 2001 (see §§ 35a.9999–1, 35a.9999–2, and 35a.9999–3 as contained in 26 CFR part 35a, revised April 1, 1999) solely for the definitions of terms or phrases used in this paragraph (g)(2).

(3) *Effective dates.* This paragraph (g) is effective for information returns as defined in section 6724(d)(1) required to be filed, payee statements as defined in section 6724(d)(2) required to be furnished, and specified information as described in section 6724(d)(3) required to be reported on or after January 1 of the calendar year immediately following the date of publication of a Treasury decision adopting these rules as final regulations in the **Federal Register**. See § 301.6724–1(g) in effect prior to January 1 of the calendar year immediately following the date of publication of a Treasury decision adopting these rules as final regulations in the **Federal Register** for substantially similar rules applicable prior to January 1 of the calendar year immediately following the date of publication of a Treasury decision adopting these rules as final regulations in the **Federal Register**.

(h) *Reasonable cause safe harbor after election under section 6722(c)(3)(B).* A filer may establish reasonable cause with respect to a failure relating to an information reporting requirement as described in paragraph (j) of this section under this paragraph (h) if the failure is a result of an election under § 301.6722–1(d)(3)(i) and the presence of a de minimis error or errors as described in sections 6721(c)(3) and 6722(c)(3) and §§ 301.6721–1(e) and 301.6722–1(d) on a filed information return or furnished payee statement. This paragraph (h) applies only when the safe harbor exceptions provided for by § 301.6721–1(e)(1) or § 301.6722–1(d)(1) would have applied, but for an election under § 301.6722–1(d)(3)(i). To establish reasonable cause and not willful neglect under this paragraph (h), the filer must file a corrected information return or furnish a corrected payee statement, or both, as applicable, within 30 days of the date of the election under § 301.6722–1(d)(3)(i). Where specific rules provide for additional time in which to furnish a corrected payee statement and file a corrected information return, the 30-day rule does not apply and the specific rules will apply. See for example §§ 31.6051–1(c) through (d) and 31.6051–2(b). If the filer rectifies the failure outside of this 30-day period, the determination of reasonable cause will be on a case-by-case basis.

* * * * *

(k) *Examples.* The provisions of this section may be illustrated by the following examples:

(1) Example 1. (i) On August 1, 2015, Individual A, an independent contractor, establishes a relationship (''an account'') with Institution L, which pays A amounts reportable under section 6041. When A opens the account L requests that A supply his TIN on the account creation document. A fails to provide his TIN. On October 1, 2015, L mails a solicitation for A's TIN that satisfies the requirement of paragraph (e)(1)(ii) of this section. A does not provide a TIN to L during 2015. L timely files an information return subject to section 6721, that does not contain A's TIN, for payments made during the 2015 calendar year with respect to A's account. A penalty is imposed on L pursuant to § 301.6721–1(a)(2) for L's failure to file a correct information return because A's TIN was not shown on the return. The penalty will be waived, however, if L establishes that the failure was due to reasonable cause as defined in this section.

(ii) To establish reasonable cause under this section, L must satisfy both paragraphs (c)(6) and (d) of this section. The criteria for obtaining a waiver under these paragraphs are as follows:

(A) L acted in a responsible manner in attempting to satisfy the information reporting requirement as described in paragraph (d) of this section; and

(B) L demonstrates that the failure arose from events beyond L's control, as described in paragraph (c)(6) of this section.

(iii) Pursuant to paragraph (d)(2) of this section, L may demonstrate that it acted in a responsible manner only by complying with paragraph (e) of this section. Paragraph (e) of this section requires a filer to request a TIN at the time the account is opened (the initial solicitation) and, if the filer does not receive the TIN at that time, to solicit the TIN on or before December 31 of the year the account is opened (for accounts opened before December) or January 31 of the following year (for accounts in the preceding December) (the annual solicitation). Because L has performed these solicitations within the time and in the manner prescribed by paragraph (e) of this section, L has acted in a responsible manner as described in paragraph (d) of this section. L satisfies paragraph (c)(6) of this section because under the facts, L can show that the failure was caused by A's failure to provide a TIN, an event beyond L's control. As a result, L has established reasonable cause under paragraph (a)(2) of this section. Therefore, the penalty imposed under § 301.6721–1(a)(2) for the failure on the 2015 information return is waived. See section 3406(a)(1)(A) which requires L to impose backup withholding on reportable payments to A if L has not received A's TIN.

(2) Example 2. (i) On August 1, 2015, Individual B opens an account with Bank M, which pays B interest reportable under section 6049. When B opens the account, M requests that B supply his TIN on the account creation document. B provides his TIN to M. On February 29, 2016, M includes the TIN that B provided on the Form 1099–INT for the 2015 calendar year. In October 2016 the Internal Revenue Service, pursuant to section 3406(a)(1)(B), notifies M that the 2015 return filed for B contains an incorrect TIN. In April 2017 a penalty is imposed on M pursuant to § 301.6721–1(a)(2) for M's failure to file a correct information return for the 2015 calendar year, that is, the return did not contain B's correct TIN. The penalty will be waived, however, if M establishes that the failure was due to reasonable cause as defined in this section.

(ii) To establish reasonable cause under this section, M must satisfy the criteria in both paragraphs (c)(6) and (d) of this section. Pursuant to paragraph (d)(2) of this section, M can demonstrate that it acted in a responsible manner only if M complies with paragraph (f) of this section. Paragraph (f) of this section requires a filer to request a TIN at the time the account is opened, an initial solicitation. Under paragraph (f)(4) of this section the initial solicitation relates to failures on returns filed for the year an account is opened. Because M performed the initial solicitation in 2015 in the time and manner prescribed in paragraph (f)(1)(i) of this section and reflected the TIN received from B on the 2015 return as required by paragraph (f)(1)(iv) of this section, M has acted in a responsible manner as described in paragraph (d) of this section. M satisfies paragraph (c)(6) of this section because, under the facts, M can show that the failure was caused by B's failure to provide a correct TIN, an event beyond M's control. As a result, M has established reasonable cause under paragraph (a)(2) of this section. Therefore, the penalty imposed under § 301.6721–1(a)(2) for the failure on the 2015 information return is waived. See section 3406(a)(1)(B) which requires M to impose backup withholding on reportable payments to B if M has not received B's correct TIN.

(3) Example 3.—(i) Table.

TABLE 1 TO PARAGRAPH (k)(3)(i)

2015	2/2016	10/2016	2/2017
Account opened (solicits TIN)	2015 return	B-notice w/respect to 2015 return	2016 return filed.
4/2017	10/2017	2/2018	4/2018
6721 penalty notice for 2015 return	B-notice w/respect to 2016 return	2017 return filed	6721 penalty notice for 2016.

(ii) The facts are the same as in Example 2 in paragraph (k)(2) of this section. Under § 31.3406(d)–5(d)(2)(i) of this chapter and paragraph (f)(3) of this section, within 15 days of the October 2016 notification of the incorrect TIN from the Internal Revenue Service, M solicits the correct TIN from B. B fails to respond. M timely files the return for 2016 with respect to the account setting forth B's incorrect TIN. In October 2017 the Internal Revenue Service notifies M pursuant to section 3406(a)(1)(B) that the 2016 return contains an incorrect TIN. In April 2018, a penalty is imposed on M pursuant to § 301.6721–1(a)(2) for M's failure to include B's correct TIN on the return for 2016. The penalty will be waived, if M establishes that the failure was due to reasonable cause as defined in this section.

(iii) M must satisfy the reasonable cause criteria in paragraphs (c)(6) and (d) of this section. M may demonstrate that it acted in a responsible manner as required under paragraph (d) of this section only by complying with paragraph (f) of this section. Paragraph (f) of this section requires a filer to make an initial solicitation for a TIN when an account is opened. Further, a filer must make an annual solicitation for a TIN by mail within 15 business days after the date that the Internal Revenue Service notifies the filer of an incorrect TIN pursuant to section 3406(a)(1)(B). M made the initial solicitation for the TIN in 2015 and, after being notified of the incorrect TIN in October 2016, the first annual solicitation within the time and manner prescribed by § 31.3406(d)–5(d)(2)(i) of this chapter and paragraphs (f)(1)(ii) and (f)(2) of this section. M acted in a responsible manner. M satisfies paragraph (c)(6) of this section because, under the facts, M can show that the failure was caused by B's failure to provide his correct TIN, an event beyond M's control. As a result M has established reasonable cause under paragraph (a)(2) of this section. Therefore, the penalty imposed under § 301.6721–1(a)(2) for the failure on the 2016 return is waived due to reasonable cause.

(4) Example 4.—(i) Table.

TABLE 2 TO PARAGRAPH (k)(2)(i)

2015	2/2016	10/2016	2/2017
Account opened (solicits TIN)	2015 return filed	B-notice w/respect to 2015 return	2016 return filed.
4/2017	10/2017	2/2018	4/2018
6721 penalty notice for 2015 return	B-notice w/respect to 2016 return	2017 return filed	6721 penalty notice for 2016 return.

(ii) The facts are the same as in Example 3 in paragraph (k)(3) of this section. M timely solicits B's TIN in October 2017, which B fails to provide. M files the return for 2017 with the incorrect TIN. In April 2019 the Internal Revenue Service informs M that the 2017 return contains an incorrect TIN. M does not solicit a TIN from B in 2018 and files a return for 2018 with B's incorrect TIN. M seeks a waiver of the penalty under § 301.6721–1(a)(2) for reasonable cause. M must satisfy the reasonable cause criteria in paragraphs (c)(6) and (d) of this section. Because M made the initial and two annual solicitations as required by paragraph (f) of this section, M has demonstrated that it acted in a responsible manner and is not required to solicit B's TIN in 2018. See paragraph (f)(5)(iv) of this section. M satisfies paragraph (c)(6) of this section because, under the facts, M can show that the failure was caused by B's failure to provide his correct TIN, an event beyond M's control. Therefore, M has established reasonable cause under paragraph (a)(2) of this section.

(5) Example 5. In 2016, Mortgage Finance Company N lends money to C to purchase property in a transaction subject to reporting under section 6050H and to section 6721. As part of the transaction, C gives N a promissory note providing for repayment of principal and the payment of interest. At the time C incurs the obligation N requests C's TIN, as required under § 1.6050H–2(f) of this chapter. C fails to provide the TIN as required by § 1.6050H–2(f) of this chapter. N sends solicitations by mail in 2016 and 2017 for the missing TIN, which C fails to provide. However, for 2018 M fails to send the solicitation required by § 1.6050H–2(f) of this chapter. N files returns for the 2016, 2017, and 2018 calendar years pursuant to section 6050H without C's TIN. Although N made the initial and the first annual solicitations in 2016 and the second annual solicitation in 2017, N did not solicit the TIN in 2018 as required under section 6050H, which requires continued annual solicitations until the TIN is obtained. Therefore, under paragraph (e)(1)(vi)(A) of this section the penalty imposed under § 301.6721–1(a) for the 2018 information return is not waived.

(6) Example 6.—(i) Table.

TABLE 3 TO PARAGRAPH (k)(6)(i)

10/2015	2/2016	10/2016	2/2017
Account opened (solicits TIN)	2015 return filed	B-notice w/respect to 2015 return	2016 return filed.
4/2017	10/2017	02/2018	4/2018
6721 penalty notice for 2015 return	B-notice w/respect to 2016 return	2017 return filed	6721 penalty notice for 2016 return.

(ii) On October 1, 2015, Individual E opens an account with Institution R, which pays E amounts reportable under section 6049. When E opens the account, R requests that E supply his TIN on an account creation document, which E does. Pursuant to paragraph (f)(1)(iv) of this section, R uses the TIN furnished by E on the information return filed for the 2015 calendar year. In October 2016 the Internal Revenue Service notifies R pursuant to section 3406(a)(1)(B) that the information return filed for E for the 2015 calendar year contained an incorrect TIN. At the time R receives this notification, E's account contains the incorrect TIN. On December 31, 2016, R telephones E pursuant to paragraphs (f)(2) and (e)(2)(ii) of this section and receives different TIN information from E. R uses this information on the return that it files timely for E for the 2016 calendar year, that is, in February 2017.

(iii) In April 2017, the Internal Revenue Service notifies R pursuant to § 301.6721–1(a)(2) that the information return filed for the 2015 calendar year contains an incorrect TIN. The penalty will be waived, however, if R establishes the failure was due to reasonable cause as defined in this section.

(iv) To establish reasonable cause under this section, R must satisfy the criteria in both paragraphs (c)(6) and (d)(2) of this section. Pursuant to paragraph (d)(2) of this section, R can demonstrate that it acted in a responsible manner only if it complies with paragraph (f) of this section. R solicited E's TIN at the time the account was opened (initial solicitation). Under paragraphs (d)(2) and (f)(4) of this section, the initial solicitation relates to failures on returns filed for the year in which an account is opened (that is, 2015) and for subsequent years until the calendar year in which the filer receives a notification of an incorrect TIN pursuant to section 3406. Because E failed to provide the correct TIN upon request, the failure arose from events beyond R's control as described in paragraph (c)(6) of this section. Therefore, the penalty with respect to the failure on the 2015 calendar year information return is waived due to reasonable cause.

(7) Example 7. (i) The facts are the same as in Example 6 in paragraph (k)(6) of this section. In April 2018 the Internal Revenue Service notifies R pursuant to § 301.6721–1(a)(2) that the information return filed for the 2016 calendar year for E contained an incorrect TIN.

(ii) To establish reasonable cause for the failure under this section, R must satisfy the criteria in both paragraphs (c)(6) and (d)(2) of this section. Pursuant to paragraph (d)(2) of this section R may establish that it acted in a responsible manner only by complying with paragraph (f) of this section. Pursuant to paragraph (f)(1)(ii) of this section, R must make an annual solicitation after being notified of an incorrect TIN if the payee's account contains the incorrect TIN at the time of the notification. Paragraph (f)(3) of this section provides that if the filer is notified pursuant to section 3406(a)(1)(B) the time and manner of making an annual solicitation is that required under § 31.3406(d)–5(g)(1)(ii) of this chapter. Section 31.3406(d)–5(g)(1)(ii) of this chapter requires R to notify E by mail within 15 business days after the date of the notice from the Internal Revenue Service, which R failed to do. As a result, R has failed to act in a responsible manner with respect to the failure on the 2016 information return, and the penalty will not be waived due to reasonable cause.

(8) Example 8. (i) On January 31, 2017, Institution Q timely furnishes Form 1099–MISC to Individual F. Also on January 31, 2017, Q timely files a corresponding Form 1099–MISC with the Internal Revenue Service. On March 15, 2017, Q becomes aware of de minimis errors (within the meaning of § 301.6722–1(d)(2)) made on the Form 1099–MISC furnished to F and filed with the Internal Revenue Service. On March 20, 2017, F makes an election under § 301.6722–1(d)(3)(i) with respect to the Form 1099–MISC that Q furnished to F. Q furnishes a corrected Form 1099–MISC to F and files a corrected Form 1099–MISC with the Internal Revenue Service by April 19, 2017, which date is 30 days from March 20, 2017.

(ii) The election by F and the presence of de minimis errors on the Forms 1099–MISC make the penalties under sections 6721 and 6722 applicable to Q. See §§ 301.6721–1(e)(3) and 301.6722–1(d)(3). Q, however, rectified the failures within 30 days of March 20, 2017, the date F made the election under § 301.6722–1(d)(3)(i) with respect to the Form 1099–MISC that Q furnished to F. Therefore, under paragraph (h) of this section, Q is considered to have established reasonable cause, and under section 6724 and paragraph (a)(1) of this section the penalties under sections 6721 and 6722 are inapplicable.

(9) Example 9. (i) The facts are the same as in Example 8 in paragraph (k)(8) of this section, except that Q does not become aware of de minimis errors made on the Form 1099–MISC furnished to F and filed with the Internal Revenue Service until June 28, 2017. Additionally, Q furnishes the corrected Form 1099–MISC to F and files the corrected Form 1099–MISC with the Internal Revenue Service after June 28, 2017, but by July 28, 2017, which date is 30 days from June 28, 2017.

(ii) As in the example in paragraph (k)(9)(i), the election by F and the presence of de minimis errors on the Forms 1099–MISC make the penalties under sections 6721 and 6722 applicable to Q. Additionally, because Q did not furnish a corrected Form 1099–MISC to F and file a corrected Form 1099–MISC with the Internal Revenue Service within 30 days of the date of F's election under § 301.6722–1(d)(3)(i), paragraph (h) of this section does not apply. However, Q may be able to demonstrate reasonable cause under the provisions of paragraph (a) of this paragraph. As part of this demonstration, for example, Q may be able to demonstrate that Q acted in a responsible manner under paragraph (d)(1) of this section by rectifying the failure (the de minimis errors) within 30 days of discovery.

* * * * *

(m) *Procedure for seeking a waiver.* In seeking an administrative determination that the failure was due to reasonable cause and not willful neglect, the filer must submit a written statement to the address provided with the notice proposing penalty assessment (for example, Notice 972CG) or the notice of penalty assessment (for example, CP15 or CP215), or as otherwise directed by the Internal Revenue Service in forms, instructions or publications. The statement must—

(1) State the specific provision under which the waiver is being requested, that is, paragraph (b) or under paragraphs (c)(2) through (6) or paragraph (h);

* * * * *

(o) *Applicability date.* In general, this section applies with respect to information returns required to be filed and payee statements required to be furnished on or after January 1 of the calendar year immediately following the date of publication of a Treasury decision adopting these rules as final regulations in the **Federal Register**. See paragraph (g)(3) of this section for effective dates applicable to paragraph (g) of this section. Paragraph (h) of this section applies with respect to information returns required to be filed and payee statements required to be furnished on or after January 1, 2017. See I.R.C. section 7805(b)(1)(C) and

section 4 of Notice 2017–09, IRB–2017–4 (January 23, 2017).

Kirsten Wielobob,

Deputy Commissioner for Services and Enforcement.

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