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

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[NRC–2018–0212]

RIN 3150–AK16

List of Approved Spent Fuel Storage Casks: TN Americas LLC, Standardized NUHOMS® System, Certificate of Compliance No. 1004, Renewed Amendment No. 15

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is amending its spent fuel storage regulations by revising the TN Americas LLC Standardized NUHOMS® Horizontal Modular Storage System (NUHOMS® System) listing within the ''List of approved spent fuel storage casks'' to include Renewed Amendment No. 15 to Certificate of Compliance No. 1004. Because this amendment is subsequent to the renewal of the TN Americas LLC Standardized NUHOMS® Certificate of Compliance 1004 system and, therefore, subject to the Aging Management Program requirements of the renewed certificate, it is referred to as ''Renewed Amendment No. 15.'' Renewed Amendment No. 15 revises the Certificate of Compliance's technical specifications to: Unify and standardize fuel qualification tables; revise existing and add new heat load zoning configurations; increase the allowable maximum assembly average burnup; allow loading of damaged fuel assemblies under certain conditions; expand the definition of the poison rod assemblies to include rod cluster control assembly materials; allow other zirconium alloy cladding materials; add model OS197 as an authorized transfer cask; add the description for the solar shield in the updated final safety analysis report; and add flexibility to general licensees in verifying compliance regarding the storage pad location and the soil-structure interaction. Additionally, the rulemaking makes clarifications to rule text related to Certificate of Compliance No. 1004 by removing redundant language.

DATES: This direct final rule is effective January 22, 2019, unless significant adverse comments are received by December 7, 2018. If this direct final rule is withdrawn as a result of such comments, timely notice of the withdrawal will be published in the **Federal Register**. 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. Comments received on this direct final rule will also be considered to be comments on a companion proposed rule published in the Proposed Rules section of this issue of the **Federal Register**.

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–2018–0212. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Email comments to: Rulemaking.Comments@nrc.gov.* If you do not receive an automatic email reply confirming receipt, then contact us at 301–415–1677.
- *Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at 301–415–1101.
- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.
- *Hand deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. (Eastern Time) Federal workdays; telephone: 301–415–1677.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Christian Jacobs, Office of Nuclear Material Safety and Safeguards; telephone: 301–415–6825; email: *Christian.Jacobs@nrc.gov* or Edward M. Lohr, Office of Nuclear Material Safety and Safeguards; telephone: 301–415–0253; email: *Edward.Lohr@nrc.gov.* Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

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I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2018–0212 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2018–0212.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the ''Availability of Documents'' section.
- *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–2018–0212 in your comment submission. The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Rulemaking Procedure

This rule is limited to the changes contained in Renewed Amendment No. 15 to Certificate of Compliance No. 1004 and does not include other aspects of the TN Americas LLC Standardized NUHOMS® System design. The NRC is using the ''direct final rule procedure'' to issue this amendment because it represents a limited and routine change to an existing Certificate of Compliance that is expected to be noncontroversial. Adequate protection of public health and safety continues to be ensured. The amendment to the rule will become effective on January 22, 2019. However, if the NRC receives significant adverse comments on this direct final rule by December 7, 2018, then the NRC will publish a document that withdraws this action and will subsequently address the comments received in a final rule as a response to the companion proposed rule published in the Proposed Rules section of this issue of the **Federal Register**. Absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period on this action.

A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, a substantive response is required when:

(a) The comment causes the NRC to reevaluate (or reconsider) its position or conduct additional analysis;

(b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(c) The comment raises a relevant issue that was not previously addressed or considered by the NRC.

(2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

(3) The comment causes the NRC to make a change (other than editorial) to the rule, Certificate of Compliance, or technical specifications.

For detailed instructions on filing comments, please see the companion proposed rule published in the Proposed Rules section of this issue of the **Federal Register**.

III. Background

Section 218(a) of the Nuclear Waste Policy Act (NWPA) of 1982, as amended, requires that ''the Secretary [of the Department of Energy] shall establish a demonstration program, in cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear power reactor sites, with the objective of establishing one or more technologies that the [Nuclear Regulatory] Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission.'' Section 133 of the NWPA states, in part, that ''[the Commission] shall, by rule, establish procedures for the licensing of any technology approved by the Commission under Section 219(a) [sic: 218(a)] for use at the site of any civilian nuclear power reactor.''

To implement this mandate, the Commission approved dry storage of spent nuclear fuel in NRC-approved casks under a general license by publishing a final rule which added a new subpart K in part 72 of title 10 of the *Code of Federal Regulations* (10 CFR) entitled ''General License for Storage of Spent Fuel at Power Reactor Sites'' (55 FR 29181; July 18, 1990). This rule also established a new subpart L in 10 CFR part 72 entitled ''Approval of Spent Fuel Storage Casks,'' which contains procedures and criteria for obtaining NRC approval of spent fuel storage cask designs. The NRC subsequently issued a final rule on December 22, 1994 (59 FR 65898), that approved the TN Americas LLC Standardized NUHOMS® System design and added it to the list of NRC-approved cask designs provided in § 72.214 as Certificate of Compliance No. 1004. Most recently, on September 27, 2017 (82 FR 44879), the NRC issued a Renewal of the revised initial certificate and Amendment Nos. 1 through 11, 13 and 14.

IV. Discussion of Changes

On March 28, 2017, TN Americas LLC submitted a request to the NRC to amend Certificate of Compliance No. 1004 and supplemented its request on July 18, 2017, December 14, 2017, and March 22, 2018. Renewed Amendment No. 15 revises the technical specifications and updated final safety analysis report to:

- Unify and standardize the fuel qualification tables for four pressurized water reactor systems in order to simplify the technical specifications.
- For the 32PT System, add a new heat load zoning configuration to allow for the loading of fuel assemblies with decay heat up to 2.2 kilowatt (kW) corresponding to a 2-year cooled fuel.
- For the 32PT System, increase the maximum assembly average burnup from 55 gigawatt-days per metric ton of uranium to 62 gigawatt-days per metric ton of uranium.
- For the 32PT System, allow for the loading of damaged fuel assemblies confined within top and bottom end caps and failed fuel assemblies loaded within individual failed fuel canisters in the 32PT System. Provide for a basket option to increase the number of poison plates from 24 to 32, resulting in an increase in the allowable enrichment of the authorized contents. Expand the definition of the poison rod assemblies in the technical specification and the updated final safety analysis report to include rod cluster control assembly materials, specifically adding a silver neutron absorber.
- For the 32PT System, include other zirconium alloy cladding materials such as ZIRLO® and M5® in the 32PT System.
- For the 24PTH System, add a new heat load zoning configuration to allow for the loading of fuel assemblies with decay heat up to 2.5 kW corresponding to a 2-year cooled fuel, and a total heat load of 35 kW per basket.
- For the 24PTH System, add the OS197 model as an authorized transfer cask for the transfer of the 24PTH–S–LC

dry shielded canister in addition to the standardized transfer cask.

• For the 61BTH System, revise the existing heat load zoning configuration to allow loading of fuel assemblies with decay heat up to 1.2 kW corresponding to a 2-year cooling time. Add the GNF–2 and ATRIUM–11 fuel assembly designs as authorized contents.

• For the 32PTH System, add a new heat load zoning configuration for the loading of fuel assemblies with decay heat up to 1.1 kW for a total heat load of 35.2 kW per basket, and add a new heat load zoning configuration to allow for loading of fuel assemblies with decay heat up to 1.3 kW for a total heat load of 37.6 kW per basket.

• Provide a description in the updated final safety analysis report for the solar shield currently described in the technical specifications for the transfer cask during transfer operations.

• Revise Technical Specification 4.3.3 Item 11 to add flexibility to general licensees in verifying compliance regarding the storage pad location and the soil-structure interaction.

Because this amendment is subsequent to the renewal of the TN Americas LLC Standardized NUHOMS® Certificate of Compliance 1004 system and, therefore, subject to the Aging Management Program requirements of the renewed certificate (see Technical Specification 5.3.1), it is referred to as ''Renewed Amendment No. 15.'' Additionally, the rulemaking makes clarifications to rule text related to Certificate of Compliance No. 1004 by removing redundant language.

As documented in the preliminary safety evaluation report, the NRC performed a detailed safety evaluation of the proposed Certificate of Compliance amendment request. There are no significant changes to cask design requirements in the proposed Certificate of Compliance amendment. Considering the specific design requirements for each accident condition, the design of the cask would prevent loss of containment, shielding, and criticality control in the event of an accident. This amendment does not reflect a significant change in design or fabrication of the cask. In addition, any resulting occupational exposure or offsite dose rates from the implementation of Renewed Amendment No. 15 would remain well within the 10 CFR part 20 limits. There will be no significant change in the types or amounts of any effluent released, no significant increase in the individual or cumulative radiation exposure, and no significant increase in the potential for, or consequences from, radiological accidents.

This direct final rule revises the TN Americas LLC Standardized NUHOMS® System listing in § 72.214 by adding Renewed Amendment No. 15 to Certificate of Compliance No. 1004. The amendment consists of the changes previously described, as set forth in the revised Certificate of Compliance and technical specifications. The revised technical specifications are identified and evaluated in the preliminary safety evaluation report.

The amended TN Americas LLC Standardized NUHOMS® cask design, when used under the conditions specified in the Certificate of Compliance, technical specifications, and NRC's regulations, will meet the requirements of 10 CFR part 72; therefore, adequate protection of public health and safety will continue to be ensured. When this direct final rule becomes effective, persons who hold a general license under § 72.210 may, consistent with the license conditions under § 72.212, load spent nuclear fuel into those TN Americas LLC Standardized NUHOMS® System casks that meet the criteria of Renewed Amendment No. 15 to Certificate of Compliance No. 1004.

V. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995 (Pub. L. 104–113) requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this direct final rule, the NRC will revise the TN Americas LLC Standardized NUHOMS® System design listed in § 72.214. This action does not constitute the establishment of a standard that contains generally applicable requirements.

VI. Agreement State Compatibility

Under the ''Policy Statement on Adequacy and Compatibility of Agreement State Programs'' approved by the Commission on June 30, 1997, and published in the **Federal Register** on September 3, 1997 (62 FR 46517), this rule is classified as Compatibility Category ''NRC.'' Compatibility is not required for Category ''NRC'' regulations. The NRC program elements in this category are those that relate directly to areas of regulation reserved to the NRC by the Atomic Energy Act of 1954, as amended, or the provisions of 10 CFR. Although an Agreement State may not adopt program elements reserved to the NRC, and the Category ''NRC'' does not confer regulatory authority on the State, the State may wish to inform its licensees of certain requirements by means consistent with the particular State's administrative procedure laws.

VII. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to write documents in a clear, concise, and well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, ''Plain Language in Government Writing,'' published June 10, 1998 (63 FR 31883).

VIII. Environmental Assessment and Finding of No Significant Environmental Impact

A. The Action

The action is to amend § 72.214 to revise the TN Americas LLC Standardized NUHOMS® System listing within the ''List of Approved Spent Fuel Storage Casks'' to include Renewed Amendment No. 15 to Certificate of Compliance No. 1004. Under the National Environmental Policy Act of 1969, as amended, and the NRC's regulations in subpart A of 10 CFR part 51, ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions,'' the NRC has determined that this direct final rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required. The NRC has made a finding of no significant impact on the basis of this environmental assessment.

B. The Need for the Action

This direct final rule amends the Certificate of Compliance for the TN Americas LLC Standardized NUHOMS® System design within the list of approved spent fuel storage casks that power reactor licensees can use to store spent fuel at reactor sites under a general license. Specifically, Renewed Amendment No. 15 updates the Certificate of Compliance as described in Section IV, ''Discussion of Changes,'' of this document, for the use of the TN Americas LLC Standardized NUHOMS® System. Additionally, the rulemaking makes clarifications to rule text related to Certificate of Compliance No. 1004 by removing redundant language.

C. Environmental Impacts of the Action

On July 18, 1990 (55 FR 29181), the NRC issued an amendment to 10 CFR part 72 to provide for the storage of spent fuel under a general license in cask designs approved by the NRC. The potential environmental impact of using

NRC-approved storage casks was initially analyzed in the environmental assessment for the 1990 final rule. The environmental assessment for this Renewed Amendment No. 15 tiers off of the environmental assessment for the July 18, 1990, final rule. Tiering on past environmental assessments is a standard process under the National Environmental Policy Act of 1969, as amended.

The TN Americas LLC Standardized NUHOMS® Systems are designed to mitigate the effects of design basis accidents that could occur during storage. Design basis accidents account for human-induced events and the most severe natural phenomena reported for the site and surrounding area. Postulated accidents analyzed for an independent spent fuel storage installation, the type of facility at which a holder of a power reactor operating license would store spent fuel in casks in accordance with 10 CFR part 72, include tornado winds and tornado-generated missiles, a design basis earthquake, a design basis flood, an accidental cask drop, lightning effects, fire, explosions, and other events.

Considering the specific design requirements for each accident condition, the design of the cask would prevent loss of confinement, shielding, and criticality control in the event of an accident. If there is no loss of confinement, shielding, or criticality control, the environmental impacts resulting from an accident would be insignificant. This amendment does not reflect a significant change in design or fabrication of the cask. Because there are no significant design or process changes, any resulting occupational exposure or offsite dose rates from the implementation of Renewed Amendment No. 15 would remain well within the 10 CFR part 20 limits. Therefore, the proposed Certificate of Compliance changes will not result in any radiological or non-radiological environmental impacts that significantly differ from the environmental impacts evaluated in the environmental assessment supporting the July 18, 1990, final rule. There will be no significant change in the types or amounts of any effluent released, no significant increase in individual or cumulative radiation exposures, and no significant increase in the potential for or consequences of radiological accidents. The NRC documented its safety findings in a preliminary safety evaluation report.

D. Alternative to the Action

The alternative to this action is to deny approval of Renewed Amendment No. 15 and not issue the direct final rule. Consequently, any 10 CFR part 72 general licensee that seeks to load spent nuclear fuel into TN Americas LLC Standardized NUHOMS® Systems in accordance with the changes described in proposed Renewed Amendment No. 15 would have to request an exemption from the requirements of §§ 72.212 and 72.214. Under this alternative, interested licensees would have to prepare, and the NRC would have to review, a separate exemption request, thereby increasing the administrative burden upon the NRC and the costs to each licensee. Therefore, the environmental impacts of the alternative action would be the same as, or more likely greater than, the preferred action.

E. Alternative Use of Resources

Approval of Renewed Amendment No. 15 to Certificate of Compliance No. 1004 would result in no irreversible commitment of resources.

F. Agencies and Persons Contacted

No agencies or persons outside the NRC were contacted in connection with the preparation of this environmental assessment.

G. Finding of No Significant Impact

The environmental impacts of the action have been reviewed under the requirements in the National Environmental Policy Act of 1969, as amended, and the NRC's regulations in subpart A of 10 CFR part 51, ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions.'' Based on the foregoing environmental assessment, the NRC concludes that this direct final rule entitled ''List of Approved Spent Fuel Storage Casks: TN Americas LLC Standardized NUHOMS® System, Certificate of Compliance No. 1004, Renewed Amendment No. 15'' will not have a significant effect on the human environment. Therefore, the NRC has determined that an environmental impact statement is not necessary for this direct final rule.

IX. Paperwork Reduction Act Statement

This direct final rule does not contain any new or amended collections of information subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing collections of information were approved by the Office of Management and Budget, approval number 3150–0132.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid Office of Management and Budget control number.

X. Regulatory Flexibility Certification

Under the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the NRC certifies that this direct final rule will not, if issued, have a significant economic impact on a substantial number of small entities. This direct final rule affects only nuclear power plant licensees and TN Americas LLC. These entities do not fall within the scope of the definition of small entities set forth in the Regulatory Flexibility Act or the size standards established by the NRC (§ 2.810).

XI. Regulatory Analysis

On July 18, 1990 (55 FR 29181), the NRC issued an amendment to 10 CFR part 72 to provide for the storage of spent nuclear fuel under a general license in cask designs approved by the NRC. Any nuclear power reactor licensee can use NRC-approved cask designs to store spent nuclear fuel if it notifies the NRC in advance, the spent fuel is stored under the conditions specified in the cask's Certificate of Compliance, and the conditions of the general license are met. A list of NRC-approved cask designs is contained in § 72.214. On December 22, 1994 (59 FR 65898), the NRC issued an amendment to 10 CFR part 72 that approved the TN Americas LLC Standardized NUHOMS® System design by adding it to the list of NRC-approved cask designs in § 72.214.

On March 28, 2017, and as supplemented on July 18, 2017, December 14, 2017, and March 22, 2018, TN Americas LLC submitted an application to amend the Standardized NUHOMS® System as described in Section IV, ''Discussion of Changes,'' of this document.

The alternative to this action is to withhold approval of Renewed Amendment No. 15 and to require any 10 CFR part 72 general licensee seeking to load spent nuclear fuel into TN Americas LLC Standardized NUHOMS® Systems under the changes described in Renewed Amendment No. 15 to request an exemption from the requirements of §§ 72.212 and 72.214. Under this alternative, each interested 10 CFR part 72 licensee would have to prepare, and the NRC would have to review, a separate exemption request, thereby increasing the administrative burden upon the NRC and the costs to each licensee.

Approval of this direct final rule is consistent with previous NRC actions.

Further, as documented in the preliminary safety evaluation report and environmental assessment, this direct final rule will have no adverse effect on public health and safety or the environment. This direct final rule has no significant identifiable impact or benefit on other Government agencies. Based on this regulatory analysis, the NRC concludes that the requirements of this direct final rule are commensurate with the NRC's responsibilities for public health and safety and the common defense and security. No other available alternative is believed to be as satisfactory, and therefore, this action is recommended.

XII. Backfitting and Issue Finality

The NRC has determined that the backfit rule (10 CFR 72.62) does not apply to this direct final rule. Therefore, a backfit analysis is not required. This direct final rule revises Certificate of Compliance No. 1004 for the TN Americas LLC Standardized NUHOMS® System, as currently listed in § 72.214. The revision consists of adding Renewed Amendment No. 15, which revises the Certificate of Compliance's technical specifications as described in Section IV, ''Discussion of Changes,'' of this document. Additionally, the rulemaking makes clarifications to rule text related to Certificate of Compliance No. 1004 by removing redundant language.

Renewed Amendment No. 15 to Certificate of Compliance No. 1004 for the TN Americas LLC Standardized NUHOMS® System was initiated by TN Americas LLC and was not submitted in response to new NRC requirements, or an NRC request for amendment. Renewed Amendment No. 15 applies only to new casks fabricated and used under Renewed Amendment No. 15. These changes do not affect existing users of the TN Americas LLC Standardized NUHOMS® System, and the current renewed Amendments Nos. 0 through 11, 13, and 14, continue to be effective for existing users. While current Certificate of Compliance users may comply with the new requirements in Renewed Amendment No. 15, this would be a voluntary decision on the part of current users. Additionally, the clarifications to the text of the rule are editorial in nature, and as such, do not fall within the definition of backfit.

For these reasons, Renewed Amendment No. 15 to Certificate of Compliance No. 1004 does not constitute backfitting under § 72.62 or § 50.109(a)(1), or otherwise represent an inconsistency with the issue finality provisions applicable to combined licenses in 10 CFR part 52. Accordingly, the NRC has not prepared a backfit analysis for this rulemaking.

XIII. Congressional Review Act

This direct final rule is not a rule as defined in the Congressional Review Act.

XIV. Availability of Documents

The documents identified in the following table are available to interested persons through one or more of the following methods, as indicated.

Document	ADAMS accession No./web link/Federal Register citation
TN Americas LLC Request to Add Amendment No. 15 to Certificate of Compliance No. 1004, letter dated March 28, 2017.	ML17094A714 (Package).
Revision to TN Americas LLC Request to Add Amendment No. 15 to Certificate of Compliance No. 1004, letter dated July 18, 2017.	ML17202Q145.
Revision to TN Americas LLC Request to Add Amendment No. 15 to Certificate of Compliance No. 1004, letter dated December 14, 2017.	ML17363A276 (Package).
Revision to TN Americas LLC Request to Add Amendment No. 15 to Certificate of Compliance No. 1004, letter dated March 22, 2018.	ML18088A180.
TN Americas LLC Amendment No. 15 to Certificate of Compliance No. 1004	ML18228A531.
Technical Specifications for TN Americas LLC Amendment No. 15 to Certificate of Compliance No. 1004	ML18228A530.
Preliminary Safety Evaluation Report for TN Americas LLC Amendment No. 15 to Certificate of Compliance No. 1004.	ML18234A012.

The NRC may post materials related to this document, including public comments, on the Federal Rulemaking website at *http://www.regulations.gov* under Docket ID NRC–2018–0212. The Federal Rulemaking website allows you to receive alerts when changes or additions occur in a docket folder. To subscribe: (1) Navigate to the docket folder (NRC–2018–0212); (2) click the ''Sign up for Email Alerts'' link; and (3) enter your email address and select how frequently you would like to receive emails (daily, weekly, or monthly).

List of Subjects in 10 CFR Part 72

Administrative practice and procedure, Hazardous waste, Indians, Intergovernmental relations, Nuclear energy, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Whistleblowing.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; the Nuclear Waste Policy Act of 1982, as amended; and 5 U.S.C. 552 and 553; the NRC is adopting the following amendments to 10 CFR part 72:

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL, HIGH-LEVEL RADIOACTIVE WASTE, AND REACTOR-RELATED GREATER THAN CLASS C WASTE

■ 1. The authority citation for part 72 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 223, 234, 274 (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2210e, 2232, 2233, 2234, 2236, 2237, 2238, 2273, 2282, 2021); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); National Environmental Policy Act of 1969 (42 U.S.C. 4332); Nuclear Waste Policy Act of 1982, secs. 117(a), 132, 133, 134, 135, 137, 141, 145(g), 148, 218(a) (42 U.S.C. 10137(a), 10152, 10153, 10154, 10155, 10157, 10161, 10165(g), 10168, 10198(a)); 44 U.S.C. 3504 note.

■ 2. In § 72.214, Certificate of Compliance 1004 is revised to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1004.

Initial Certificate Effective Date: January 23, 1995, superseded by Initial Certificate, Revision 1, on April 25, 2017, superseded by Renewed Initial

Certificate, Revision 1, on December 11, 2017.

Renewed Initial Certificate, Revision 1, Effective Date: December 11, 2017.

Amendment Number 1 Effective Date: April 27, 2000, superseded by Amendment Number 1, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 1, Revision 1, on December 11, 2017.

Renewed Amendment Number 1, Revision 1, Effective Date: December 11, 2017.

Amendment Number 2 Effective Date: September 5, 2000, superseded by Amendment Number 2, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 2, Revision 1, on December 11, 2017.

Renewed Amendment Number 2, Revision 1, Effective Date: December 11, 2017.

Amendment Number 3 Effective Date: September 12, 2001, superseded by Amendment Number 3, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 3, Revision 1, on December 11, 2017.

Renewed Amendment Number 3, Revision 1, Effective Date: December 11, 2017.

Amendment Number 4 Effective Date: February 12, 2002, superseded by Amendment Number 4, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 4, Revision 1, on December 11, 2017.

Renewed Amendment Number 4, Revision 1, Effective Date: December 11, 2017.

Amendment Number 5 Effective Date: January 7, 2004, superseded by Amendment Number 5, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 5, Revision 1, on December 11, 2017.

Renewed Amendment Number 5, Revision 1, Effective Date: December 11, 2017.

Amendment Number 6 Effective Date: December 22, 2003, superseded by Amendment Number 6, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 6, Revision 1, on December 11, 2017.

Renewed Amendment Number 6, Revision 1, Effective Date: December 11, 2017.

Amendment Number 7 Effective Date: March 2, 2004, superseded by Amendment Number 7, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 7, Revision 1, on December 11, 2017.

Renewed Amendment Number 7, Revision 1, Effective Date: December 11, 2017.

Amendment Number 8 Effective Date: December 5, 2005, superseded by Amendment Number 8, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 8, Revision 1, on December 11, 2017.

Renewed Amendment Number 8, Revision 1, Effective Date: December 11, 2017.

Amendment Number 9 Effective Date: April 17, 2007, superseded by Amendment Number 9, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 9, Revision 1, on December 11, 2017.

Renewed Amendment Number 9, Revision 1, Effective Date: December 11, 2017.

Amendment Number 10 Effective Date: August 24, 2009, superseded by Amendment Number 10, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 10, Revision 1, on December 11, 2017.

Renewed Amendment Number 10, Revision 1, Effective Date: December 11, 2017.

Amendment Number 11 Effective Date: January 7, 2014, superseded by Amendment Number 11, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 11, Revision 1, on December 11, 2017.

Renewed Amendment Number 11, Revision 1, Effective Date: December 11, 2017, as corrected (ADAMS Accession No. ML18018A043).

Amendment Number 12 Effective Date: Amendment not issued by the NRC.

Amendment Number 13 Effective Date: May 24, 2014, superseded by Amendment Number 13, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 13, Revision 1, on December 11, 2017.

Renewed Amendment Number 13, Revision 1, Effective Date: December 11, 2017, as corrected (ADAMS Accession No. ML18018A100).

Amendment Number 14 Effective Date: April 25, 2017, superseded by Renewed Amendment Number 14, on December 11, 2017.

Renewed Amendment Number 14 Effective Date: December 11, 2017.

Renewed Amendment Number 15 Effective Date: January 22, 2019.

SAR Submitted by: Transnuclear, Inc.

SAR Title: Final Safety Analysis Report for the Standardized NUHOMS® Horizontal Modular Storage System for Irradiated Nuclear Fuel.

Docket Number: 72–1004.

Certificate Expiration Date: January 23, 2015.

Renewed Certificate Expiration Date: January 23, 2055.

Model Number: NUHOMS®–24P, –24PHB, –24PTH, –32PT, –32PTH1, –37PTH, –52B, –61BT, –61BTH, and –69BTH.

* * * * *

Dated at Rockville, Maryland, this 24th day of October 2018.

For the Nuclear Regulatory Commission.

Margaret M. Doane,

Executive Director for Operations.

[FR Doc. 2018–24255 Filed 11–6–18; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0551; Product Identifier 2018–NM–023–AD; Amendment 39–19485; AD 2018–22–12]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Bombardier, Inc., Model CL–600–2C10 (Regional Jet Series 700, 701, & 702) airplanes; Model CL–600–2D15 (Regional Jet Series 705) airplanes; Model CL–600–2D24 (Regional Jet Series 900) airplanes; and Model CL–600–2E25 (Regional Jet Series 1000) airplanes. This AD was prompted by reports of damage to the protective coating and corrosion on the piston/axle of the main landing gear (MLG), caused by friction between the inboard axle sleeve and the axle thrust face. This AD requires revising the maintenance or inspection program, as applicable, to incorporate a detailed inspection of the MLG piston/axle for damage to the protective coating and for corrosion. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective December 12, 2018.

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

ADDRESSES: For service information identified in this final rule, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; Widebody Customer Response Center North America toll-free telephone 1–866–538–1247 or direct-dial telephone 1–514–855–2999; fax 514–855–7401; email *ac.yul@aero.bombardier.com;*

internet *http://www.bombardier.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0551.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0551; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations (phone: 800–647–5527) is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Darren Gassetto, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7323; fax 516–794–5531; email *9-avs-nyaco-cos@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Bombardier, Inc., Model CL–600–2C10 (Regional Jet Series 700, 701, & 702) airplanes; Model CL–600–2D15 (Regional Jet Series 705) airplanes; Model CL–600–2D24 (Regional Jet Series 900) airplanes; and Model CL–600–2E25 (Regional Jet Series 1000) airplanes. The NPRM published in the **Federal Register** on July 6, 2018 (83 FR 31504). The NPRM was prompted by reports of damage to the protective coating and corrosion on the piston/axle of the MLG, caused by friction between the inboard axle sleeve and the axle thrust face. The NPRM proposed to require revising the maintenance or inspection program, as applicable, to incorporate a detailed inspection of the MLG piston/axle for damage to the protective coating and for corrosion.

We are issuing this AD to address damage to the protective coating and corrosion found on the piston/axle of the MLG, caused by friction between the inboard axle sleeve and the axle thrust face, which could cause the axle to separate from the piston/axle, and ultimately lead to collapse of the landing gear during ground maneuvers or upon landing.

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian AD CF–2017–38, dated December 20, 2017 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Bombardier, Inc., Model CL–600–2C10 (Regional Jet Series 700, 701, & 702) airplanes; Model CL–600–2D15 (Regional Jet Series 705) airplanes; Model CL–600–2D24 (Regional Jet Series 900) airplanes; and Model CL–600–2E25 (Regional Jet Series 1000) airplanes. The MCAI states:

> There have been reports of damage to the protective coating and/or corrosion on the piston/axle of the Main Landing Gear (MLG). The damage to the protective coating was caused by friction between the inboard axle sleeve and the axle thrust face. If not corrected, this condition can cause the axle to separate from the piston/axle [and consequent collapse of the landing gear during ground maneuvers or upon landing].
>
> This [Canadian] AD mandates the incorporation of a new maintenance task in order to perform a [detailed] visual inspection of the piston/axle of the MLG to prevent the axle separation from the piston/axle.

You may examine the MCAI in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0551.

Comments

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

Support for the NPRM

The Air Line Pilots Association, International and Endeavor Air stated their support for the proposed AD.

Request To Refer to Certain Revised Service Information

Endeavor Air noted that Bombardier, Inc. has issued certain revised service information and requested that the proposed AD be updated to reference the revised service information.

We agree with the commenter's request. We have determined the revised service information should be referenced in regards to calculating the time since piston/axle entry into service, since operators might have done the latest inspection, restoration, or repair using the revised service information. We have updated paragraph (h) of this AD to refer to the revised service information and reorganized paragraph (h) of this AD for consistency.

Conclusion

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

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

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

Related Service Information Under 1 CFR Part 51

Bombardier, Inc. has issued CRJ Series Regional Jet Temporary Revision (TR) MRB–0059, dated March 20, 2015. The service information describes an airworthiness limitation task for a detailed inspection for damage to the protective coating and for corrosion on the piston/axle of the MLG. 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 530 airplanes of U.S. registry. We estimate the following costs to comply with this AD:

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

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of

the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2018–22–12 Bombardier, Inc: Amendment 39–19485; Docket No. FAA–2018–0551; Product Identifier 2018–NM–023–AD.

(a) Effective Date

This AD is effective December 12, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc., Model CL–600–2C10 (Regional Jet Series 700, 701, & 702) airplanes, serial numbers 10002 and subsequent; Model CL–600–2D15 (Regional Jet Series 705) airplanes and Model CL–600–2D24 (Regional Jet Series 900) airplanes, serial numbers 15001 and subsequent; and Model CL–600–2E25 (Regional Jet Series 1000) airplanes, serial numbers 19001 and subsequent; certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 32, Landing gear.

(e) Reason

This AD was prompted by reports of damage to the protective coating and corrosion found on the piston/axle of the main landing gear (MLG), caused by friction between the inboard axle sleeve and the axle thrust face. We are issuing this AD to address such damage, which could cause the axle to separate from the piston/axle, and ultimately lead to collapse of the landing gear during ground maneuvers or upon landing.

(f) Compliance

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

(g) Maintenance or Inspection Program Revision

Within 30 days after the effective date of this AD: Revise the maintenance or inspection program, as applicable, by incorporating CRJ Series Regional Jet Temporary Revision (TR) MRB–0059, dated March 20, 2015. The applicable maintenance or inspection program revision required by this paragraph may be done by inserting a copy of CRJ Series Regional Jet TR MRB–0059, dated March 20, 2015, into the maintenance requirements manual (MRM). When the information in CRJ Series Regional Jet TR MRB–0059, dated March 20, 2015, has been included in the general revisions of the MRM, the general revisions may be inserted in the MRM, and this TR may be removed, provided the relevant information in the general revision is identical to that in CRJ Series Regional Jet TR MRB–0059, dated March 20, 2015. The initial time for the task is at the applicable time specified in figure 1 to paragraphs (g) and (h) of this AD. Information used for determining the entry into service date can be found in paragraph (h) of this AD.

Figure 1 to paragraphs (g) and (h) of this AD – *Compliance Time Requirements*

Time since piston/axle entry into service	Compliance time to perform initial inspection task
More than 48 months since entry into service, as of the effective date of this AD	Within 12 months from the effective date of this AD
More than 24 months but less than or equal to 48 months since entry into service, as of the effective date of this AD	Within 24 months from the effective date of this AD but before reaching 60 months total piston/axle time in-service
Less than or equal to 24 months since entry into service, as of the effective date of this AD	Within 36 months from the effective date of this AD but before reaching 48 months total piston/axle time in-service

(h) Information for Calculating Time Since Piston/Axle Entry Into Service Date

The entry into service date (first column of figure 1 to paragraphs (g) and (h) of this AD) can be calculated from the date of the latest inspection, restoration, or repair accomplished as specified in the service information listed in paragraphs (h)(1) through (h)(3) of this AD, as applicable.

(1) Inspected as specified in one of the following Bombardier Service Bulletins specified in paragraphs (h)(1)(i) through (h)(1)(iv) of this AD.

(i) Bombardier Service Bulletin 670BA–32–048, dated August 29, 2014.

(ii) Bombardier Service Bulletin 670BA–32–048, Revision A, dated September 5, 2014.

(iii) Bombardier Service Bulletin 670BA–32–048, Revision B, dated September 2, 2015.

(iv) Bombardier Service Bulletin 670BA–32–048, Revision C, dated July 11, 2018.

(2) Restored as specified in Bombardier Task Number 320100–210, of the Bombardier CRJ Series Regional Jet MRM, Part 1, CSP B–053.

(3) Repaired as specified in one or more of the Bombardier repair engineering orders (REO) specified in paragraphs (h)(3)(i) through (h)(3)(v) of this AD.

(i) Bombardier REO 670–32–11–313, Revision A, dated March 18, 2014.

(ii) Bombardier REO 670–32–11–361, dated July 30, 2014.

(iii) Bombardier REO 670–32–11–361, Revision A, dated May 31, 2018.

(iv) Bombardier REO 698–32–11–008, dated July 30, 2014.

(v) Bombardier REO 698–32–11–008, Revision A, dated May 31, 2018.

(i) No Alternative Actions or Intervals

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

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, New York ACO Branch, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian AD CF–2017–38, dated December 20, 2017, for related information. This MCAI may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0551.

(2) For more information about this AD, contact Darren Gassetto, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7323; fax 516–794–5531; email *9-avs-nyaco-cos@faa.gov.*

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

(l) Material Incorporated by Reference

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

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

(i) CRJ Series Regional Jet Temporary Revision (TR) MRB–0059, dated March 20, 2015.

(ii) [Reserved]

(3) For service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; Widebody Customer Response Center North America toll-free telephone 1–866–538–1247 or direct-dial telephone 1–514–855–2999; fax 514–855–7401; email *ac.yul@aero.bombardier.com;* internet *http://www.bombardier.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 October 25, 2018.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–24003 Filed 11–6–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0510; Product Identifier 2017–NM–115–AD; Amendment 39–19483; AD 2018–22–10]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2016–04–16, which applied to all The Boeing Company Model DC–10–10, DC–10–10F, DC–10–15, DC–10–30, DC–10–30F (KC–10A and KDC–10), DC–10–40, DC–10–40F, MD–10–10F, MD–10–30F, MD–11, and MD–11F airplanes. AD 2016–04–16 required adding design features to detect electrical faults and to detect a pump running in an empty fuel tank. This AD continues to require adding design features to detect electrical faults and to detect a pump running in an empty fuel tank. This AD also provides optional terminating action for certain requirements. This AD was prompted by a fuel system review conducted by the manufacturer. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective December 12, 2018.

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

The Director of the Federal Register approved the incorporation by reference of certain other publications listed in this AD as of April 15, 2016 (81 FR 12806, March 11, 2016).

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–2018–0510.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0510; 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: Serj Harutunian, Aerospace Engineer, Propulsion Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5254; fax: 562–627–5210; email: *serj.harutunian@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2016–04–16, Amendment 39–18410 (81 FR 12806, March 11, 2016) (''AD 2016–04–16''). AD 2016–04–16 applied to all The Boeing Company Model DC–10–10, DC–10–10F, DC–10–15, DC–10–30, DC–10–30F (KC–10A and KDC–10), DC–10–40, DC–10–40F, MD–10–10F, MD–10–30F, MD–11, and MD–11F airplanes. The NPRM published in the **Federal Register** on June 14, 2018 (83 FR 27718). The NPRM was prompted by a fuel system review conducted by the manufacturer and a determination that accomplishing new service information in conjunction with certain service information specified in AD 2016–04–16 would terminate certain actions in related ADs. The NPRM proposed to continue to require adding design features to detect electrical faults and to detect a pump running in an empty fuel tank. The NPRM also proposed to provide optional terminating action for certain requirements. We are issuing this AD to address the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

Comments

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

Support for the NPRM

FedEx Express (FedEx) and Air Line Pilots Association, International (ALPA) provided their concurrence with the NPRM. FedEx also pointed out that the NPRM affects 39 Model MD–10 airplanes and 57 Model MD–11 airplanes in the FedEx fleet.

Request To Clarify the Terminating Action Specified in Paragraph (k) of the Proposed AD

Boeing requested that we clarify the terminating action specified in paragraph (k) of the proposed AD. Boeing agreed that the repetitive inspections and tests may be terminated upon installation of the new connector design per the Boeing service bulletins cited in paragraph (k) of the proposed AD (Boeing Service Bulletin DC10–28–264, dated May 15, 2015; and Boeing Service Bulletin MD11–28–146, dated May 15, 2015). Boeing noted that those service bulletins were approved by the Manager, Los Angeles ACO Branch. Boeing added that those service bulletins also specify an additional condition for the terminating actions: the fault current detectors cited in paragraphs (h)(1)(ii) and (h)(2)(ii) of the proposed AD must also be installed before the repetitive actions are terminated. Boeing recommended that paragraph (k) of the proposed AD be revised to clarify that the fault current detectors must be installed per paragraphs (h)(1)(ii) and (h)(2)(ii) of the proposed AD in order to accomplish the terminating action per the Boeing service bulletins cited in paragraph (k) of the proposed AD.

We agree with the commenter's request. Paragraph F., ''Approval,'' of Boeing Service Bulletin DC10–28–264, dated May 15, 2015; and Boeing Service Bulletin MD11–28–146, dated May 15, 2015, specifies that the actions in those service bulletins as well as the service bulletins specified in paragraphs (h)(1)(ii) and (h)(2)(ii) of this AD terminate the actions required by paragraph (a) of AD 2002–13–10, Amendment 39–12798 (67 FR 45053, July 8, 2002) (''AD 2002–13–10''), paragraph (a) of AD 2003–07–14, Amendment 39–13110 (68 FR 17544, April 10, 2003) (''AD 2003–07–14''), and paragraph (j) of AD 2011–11–05, Amendment 39–16704 (76 FR 31462, June 1, 2011) (''AD 2011–11–05''). We have revised paragraph (k) of this AD accordingly.

Request To Withdraw the NPRM

United Parcel Service (UPS) requested that we withdraw the NPRM. UPS pointed out that the NPRM includes no

new requirements or information. UPS indicated that no new requirements or actions would create an undue burden on operators because existing internal paperwork and records must then be revised to provide proof of compliance.

We acknowledge the commenter's concerns; however, we disagree with the request to withdraw the NPRM. AD 2003–07–14 was affected by AD 2016–04–16 but was inadvertently left out of AD 2016–04–16. This AD corrects that oversight and includes AD 2003–07–14 as an affected AD. Additionally, this AD provides new optional terminating actions that affect AD 2003–07–14 as well as AD 2002–13–10 and AD 2011–11–05.

Request To Include Updated Service Information

UPS requested that we revise the NPRM to include a later revision of Boeing Trijet Special Compliance Item Report MDC–02K1003. UPS pointed out that the new fuel pump housing assembly that is created by installation of the new connectors was not added until Revision N of Boeing Trijet Special Compliance Item Report MDC–02K1003. Additionally, UPS mentioned that Revision R of Boeing Trijet Special Compliance Item Report MDC–02K1003 was in the approval process at the time the comment was submitted.

We agree with the request to include the latest published version of Boeing Trijet Special Compliance Item Report MDC–02K1003. We referred to Boeing Trijet Special Compliance Item Report MDC–02K1003, Revision M, including Appendices A through D, dated July 25, 2014, as an appropriate source of service information in the NPRM. Revision R of Boeing Trijet Special Compliance Item Report MDC–02K1003, including Appendices A through D, dated May 9, 2018, includes new part numbers for Critical Design Configuration Control Limitation (CDCCL) 28–2 and updates certain special compliance items to include additional procedures for airplanes with a certain configuration. We have added paragraph (l) to this AD to include Revision R of Boeing Trijet Special Compliance Item Report MDC–02K1003, including Appendices B through D, dated May 9, 2018, as an optional revision to paragraph (h)(3) of this AD, and we have redesignated subsequent paragraphs accordingly. We are considering further rulemaking to require revising the maintenance or inspection program to include Revision R of Boeing Trijet Special Compliance Item Report MDC–02K1003, including Appendices B through D, dated May 9, 2018.

Conclusion

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

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

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

Related Service Information Under 1 CFR Part 51

We reviewed the following Boeing service information.

- Boeing Alert Service Bulletin DC10–28A253, dated June 5, 2014; and Boeing Alert Service Bulletin MD11–28A133, dated June 5, 2014. This service information describes procedures for replacing the fuel pump control relays with fault current detectors and changing the fuel tank boost/transfer pump wire termination. These documents are distinct since they apply to different airplane models.
- Boeing Service Bulletin DC10–28–256, dated June 24, 2014; and Boeing Service Bulletin MD11–28–137, dated June 24, 2014. This service information describes procedures for changing the fuel pump control and indication system wiring. These documents are distinct since they apply to different airplane models.
- Boeing Trijet Special Compliance Item Report MDC–02K1003, Revision M, including Appendices A through D, dated July 25, 2014; and Boeing Trijet Special Compliance Item Report MDC–02K1003, Revision R, including Appendices A through D, dated May 9, 2018; which include CDCCLs, ALIs, and short-term extensions in Appendices B, C, and D, respectively. This service information describes fuel ALIs that address ignition sources. These documents are distinct since Revision R includes additional requirements.
- Boeing Service Bulletin DC10–28–264, dated May 15, 2015, and Boeing Service Bulletin MD11–28–146, dated May 15, 2015. This service information describes procedures for replacement of the fuel pump housing electrical connector, associated wires, fuel tank feed-through components, and installing sealed terminal lugs on the fuel pump wiring, or replacement of the fuel pump housing, associated wires, fuel tank feed-through components, and installing sealed terminal lugs on the fuel pump. These documents are distinct since they apply to different airplane models.

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

Costs of Compliance

We estimate that this AD affects 341 airplanes of U.S. registry. We estimate the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Installing design features using a method approved by the FAA (retained actions from AD 2016-04-16).	152 work-hours × $85 per hour = $12,920	$137,500	$150,420	$51,293,220.
Installing design features using service information (retained optional actions from AD 2016-04-16).	98 work-hours × $85 per hour = $8,330	109,000	117,330	40,009,530.

ESTIMATED COSTS FOR OPTIONAL TERMINATING ACTIONS

Action	Labor cost	Parts cost	Cost per product
Option 1: Replace connectors for Model DC–10 and MD–10 (122 airplanes).	68 work-hours × $85 per hour = $5,780	$54,842	$60,622.
Option 1: Replace connectors for Model MD–11 (124 airplanes).	59 work-hours × $85 per hour = $5,015	$67,031	$72,046.
Option 2: Replace fuel pump housings for Model DC–10 and MD–10 (122 airplanes).	Up to 81 work-hours × $85 per hour = $6,885.	Up to $54,842	Up to $61,727.
Option 2: Replace fuel pump housings for Model MD–11 (124 airplanes).	Up to 77 work-hours × $85 per hour = $6,545.	Up to $67,031	Up to $73,576.

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

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2016–04–16, Amendment 39–18410 (81 FR 12806, March 11, 2016), and adding the following new AD:

2018–22–10 The Boeing Company: Amendment 39–19483; Docket No. FAA–2018–0510; Product Identifier 2017–NM–115–AD.

(a) Effective Date

This AD is effective December 12, 2018.

(b) Affected ADs

(1) This AD replaces AD 2016–04–16, Amendment 39–18410 (81 FR 12806, March 11, 2016) (''AD 2016–04–16'').

(2) This AD affects AD 2002–13–10, Amendment 39–12798 (67 FR 45053, July 8, 2002) (''AD 2002–13–10'').

(3) This AD affects AD 2003–07–14, Amendment 39–13110 (68 FR 17544, April 10, 2003) (''AD 2003–07–14'').

(4) This AD affects AD 2008–06–21 R1, Amendment 39–16100 (74 FR 61504, November 25, 2009) (''AD 2008–06–21 R1'').

(5) This AD affects AD 2011–11–05, Amendment 39–16704 (76 FR 31462, June 1, 2011) (''AD 2011–11–05'').

(c) Applicability

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

(1) Model DC–10–10, DC–10–10F, DC–10–15, DC–10–30, DC–10–30F (KC–10A and KDC–10), DC–10–40, and DC–10–40F airplanes.

(2) Model MD–10–10F, MD–10–30F, MD–11, and MD–11F airplanes.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by a fuel system review conducted by the manufacturer. We are issuing this AD to address the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

(f) Compliance

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

(g) Restatement of Paragraph (g) of AD 2016–04–16, With No Changes

This paragraph restates the requirements of paragraph (g) of AD 2016–04–16, with no changes. Except as provided by paragraph (h) of this AD: As of 48 months after April 15, 2016 (the effective date of AD 2016–04–16), no person may operate any airplane affected by this AD unless an amended type certificate or supplemental type certificate that incorporates the design features and requirements described in paragraphs (g)(1) through (g)(4) of this AD has been approved by the Manager, Los Angeles ACO Branch, FAA, and those design features are installed on the airplane to meet the criteria specified in section 25.981(a) and (d) of the Federal Aviation Regulations (14 CFR 25.981(a) and (d), at Amendment 25–125 (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgFAR.nsf/0/339DAEE3E0A6379D862574CF00641951?OpenDocument*)). For airplanes on which Boeing-installed auxiliary fuel tanks are

removed, the actions specified in this AD for the auxiliary fuel tanks are not required.

(1) For all airplanes: Each electrically powered alternating current (AC) fuel pump installed in any fuel tank that normally empties during flight and each pump that is partially covered by a lowering fuel level—such as main tanks, center wing tanks, auxiliary fuel tanks installed by the airplane manufacturer, and tail tanks—must have a protective device installed to detect electrical faults that can cause arcing and burn through of the fuel pump housing and pump electrical connector. The same device must shut off the pump by automatically removing electrical power from the pump when such faults are detected. When a fuel pump is shut off resulting from detection of an electrical fault, the device must stay latched off, until the fault is cleared through maintenance action and the pump is verified safe for operation.

(2) For airplanes with a 2-person flightcrew: Additional design features, if not originally installed by the airplane manufacturer, must be installed to meet 3 criteria: To detect a running fuel pump in a tank that is normally emptied during flight, to provide an indication to the flightcrew that the tank is empty, and to automatically shut off that fuel pump. The prospective pump indication and shutoff system must automatically shut off each pump in case the flightcrew does not shut off a pump running dry in an empty tank within 60 seconds after each fuel tank is emptied. An airplane flight manual supplement (AFMS) that includes flightcrew manual pump shutoff procedures in the Limitations section of the AFMS must be submitted to the Los Angeles ACO Branch, FAA, for approval.

(3) For airplanes with a 3-person flightcrew: Additional design features, if not originally installed by the airplane manufacturer, must be installed to detect when a fuel pump in a tank that is normally emptied during flight is running in an empty fuel tank, and to provide an indication to the flightcrew that the tank is empty. The flight engineer must manually shut off each pump running dry in an empty tank within 60 seconds after the tank is emptied. The AFMS Limitations section must be revised to specify that this pump shutoff must be done by the flight engineer.

(4) For all airplanes with tanks that normally empty during flight: Separate means must be provided to detect and shut off a pump that was previously commanded to be shut off automatically or manually but remained running in an empty tank during flight.

(h) Restatement of Paragraph (h) of AD 2016–04–16, With No Changes

This paragraph restates the provisions of paragraph (h) of AD 2016–04–16, with no changes. In lieu of doing the requirements of paragraph (g) of this AD, do the applicable actions specified in paragraphs (h)(1), (h)(2), and (h)(3) of this AD.

(1) For MD–11 and MD–11F airplanes: Do the actions specified in paragraphs (h)(1)(i) and (h)(1)(ii) of this AD.

(i) As of 48 months after April 15, 2016 (the effective date of AD 2016–04–16), change the fuel pump control and indication system wiring, in accordance with the Accomplishment Instructions of Boeing Service Bulletin MD11–28–137, dated June 24, 2014.

(ii) Prior to or concurrently with accomplishing the actions specified in paragraph (h)(1)(i) of this AD: Replace the fuel pump control relays with fault current detectors, and change the fuel tank boost/transfer pump wire termination, in accordance with Accomplishment Instructions of Boeing Alert Service Bulletin MD11–28A133, dated June 5, 2014.

(2) For Model DC–10–10, DC–10–10F, DC–10–15, DC–10–30, DC–10–30F (KC–10A and KDC–10), DC–10–40, DC–10–40F, MD–10–10F, and MD–10–30F airplanes: Do the actions specified in paragraphs (h)(2)(i) and (h)(2)(ii) of this AD.

(i) As of 48 months after April 15, 2016 (the effective date of AD 2016–04–16), change the fuel pump control and indication system wiring, in accordance with the Accomplishment Instructions of Boeing Service Bulletin DC10–28–256, dated June 24, 2014.

(ii) Prior to or concurrently with accomplishing the actions specified in paragraph (h)(2)(i) of this AD: Replace the fuel pump control relays with fault current detectors, and change the fuel tank boost/transfer pump wire termination, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin DC10–28A253, dated June 5, 2014.

(3) For all airplanes: Within 30 days after accomplishing the actions required by paragraph (h)(1) or (h)(2) of this AD, or within 30 days after April 15, 2016 (the effective date of AD 2016–04–16), whichever occurs later, revise the maintenance or inspection program, as applicable, to incorporate the Critical Design Configuration Control Limitations (CDCCLs), Airworthiness Limitation Instructions (ALIs), and short-term extensions specified in Appendices B, C, and D of Boeing Trijet Special Compliance Item (SCI) Report MDC–02K1003, Revision M, dated July 25, 2014. The initial compliance time for accomplishing the actions specified in the ALIs is at the later of the times specified in paragraphs (h)(3)(i) and (h)(3)(ii) of this AD. Revising the maintenance or inspection program required by this paragraph terminates the requirements in paragraphs (g) and (h) of AD 2008–06–21 R1.

(i) At the applicable time specified in Appendix C of Boeing Trijet SCI Report MDC–02K1003, Revision M, dated July 25, 2014, except as provided by Appendix D of Boeing Trijet SCI Report MDC–02K1003, Revision M, dated July 25, 2014.

(ii) Within 30 days after accomplishing the actions required by paragraph (h)(1) or (h)(2) of this AD, as applicable; or within 30 days after April 15, 2016 (the effective date of AD 2016–04–16); whichever occurs later.

(i) Restatement of Paragraph (i) of AD 2016–04–16, With No Changes

This paragraph restates the requirements of paragraph (i) of AD 2016–04–16, with no changes. If the option in paragraph (h)(3) of this AD is accomplished: After the maintenance or inspection program has been revised as provided by paragraph (h)(3) of this AD, no alternative actions (*e.g.,* inspections), intervals, or CDCCLs may be used unless the actions, intervals, or CDCCLs are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (m) of this AD.

(j) Restatement of Paragraph (j) of AD 2016–04–16, With Additional AD Reference and Clarification of Provisions

This paragraph restates the provisions of paragraph (j) of AD 2016–04–16, with an additional AD reference and clarification of the provisions. Accomplishment of the actions specified in paragraphs (h)(1), (h)(2), and (h)(3) of this AD, as applicable, extends the 18-month interval for the repetitive inspections and tests required by paragraph (a) of AD 2002–13–10; the 18-month interval for the repetitive inspections required by paragraph (a) of AD 2003–07–14; and the 18-month interval for the repetitive inspections required by paragraph (j) of AD 2011–11–05; to 24-month intervals for pumps affected by those ADs, regardless if the pump is installed in a tank that normally empties, provided the remaining actions required by those three ADs have been accomplished.

(k) New Provision of This AD: Optional Terminating Action

For airplanes on which the actions specified in paragraph (h)(1)(ii) or (h)(2)(ii) have been done: Replacing the electrical connectors or fuel pump housing in accordance with the Accomplishment Instructions of Boeing Service Bulletin DC10–28–264, dated May 15, 2015; or Boeing Service Bulletin MD11–28–146, dated May 15, 2015, as applicable; terminates the repetitive inspections and tests required by paragraph (a) of AD 2002–13–10, paragraph (a) of AD 2003–07–14, and paragraph (j) of AD 2011–11–05.

(l) New Provision of This AD: Optional Revision

(1) In lieu of accomplishing the revision specified in paragraph (h)(3) of this AD: Within the compliance time specified in paragraph (h)(3) of this AD, operators may revise the maintenance or inspection program, as applicable, to incorporate the CDCCLs, ALIs, and short-term extensions specified in Appendices B, C, and D of Boeing Trijet Special Compliance Item Report MDC–02K1003, Revision R, dated May 9, 2018. The initial compliance time for accomplishing the actions specified in the ALIs is at the later of the times specified in paragraphs (l)(1)(i) and (l)(1)(ii) of this AD. Revising the maintenance or inspection program specified in this paragraph terminates the requirements in paragraphs (g) and (h) of AD 2008–06–21 R1.

(i) At the applicable time specified in Appendix C of Boeing Trijet Special Compliance Item Report MDC–02K1003, Revision R, dated May 9, 2018, except as provided by Appendix D of Boeing Trijet Special Compliance Item Report MDC–02K1003, Revision R, dated May 9, 2018.

(ii) Within 30 days after accomplishing the actions required by paragraph (h)(1) or (h)(2)

of this AD, as applicable; or within 30 days after the effective date of this AD; whichever occurs later.

(2) If the optional revision specified in paragraph (l)(1) of this AD is accomplished: After the maintenance or inspection program has been revised as provided by paragraph (1)(1) of this AD, no alternative actions (*e.g.,* inspections), intervals, or CDCCLs may be used unless the actions, intervals, or CDCCLs are approved as an AMOC in accordance with the procedures specified in paragraph (m) of this AD.

(m) Alternative Methods of Compliance (AMOCs)

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

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

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Los Angeles ACO Branch, FAA, 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 (m)(4)(i) and (m)(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.

(n) Related Information

For more information about this AD, contact Serj Harutunian, Aerospace Engineer, Propulsion Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5254; fax: 562–627–5210; email: *serj.harutunian@faa.gov.*

(o) Material Incorporated by Reference

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

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

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

(i) Boeing Service Bulletin DC10–28–264, dated May 15, 2015.

(ii) Boeing Service Bulletin MD11–28–146, dated May 15, 2015.

(iii) Boeing Trijet Special Compliance Item Report MDC–02K1003, Revision R, including Appendices A through D, dated May 9, 2018.

(4) The following service information was approved for IBR on April 15, 2016 (81 FR 12806, March 11, 2016).

(i) Boeing Alert Service Bulletin DC10–28A253, dated June 5, 2014.

(ii) Boeing Service Bulletin DC10–28–256, dated June 24, 2014.

(iii) Boeing Alert Service Bulletin MD11–28A133, dated June 5, 2014.

(iv) Boeing Service Bulletin MD11–28–137, dated June 24, 2014.

(v) Boeing Trijet Special Compliance Item Report MDC–02K1003, Revision M, including Appendices A through D, dated July 25, 2014.

(5) 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.*

(6) 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.

(7) 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 October 24, 2018.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–23822 Filed 11–6–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0404; Product Identifier 2018–NE–15–AD; Amendment 39–19468; AD 2018–21–10]

RIN 2120–AA64

Airworthiness Directives; International Aero Engines (IAE) Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all International Aero Engines (IAE) PW1133G–JM, PW1133GA–JM, PW1130G–JM, PW1127G–JM, PW1127GA–JM, PW1127G1–JM, PW1124G–JM, PW1124G1–JM, and PW1122G–JM turbofan engines. This AD was prompted by reports of in-flight engine shutdowns and aborted take-offs as the result of certain parts affecting the durability of the rear high-pressure compressor (HPC) rotor hub knife edge seal. This AD requires replacing the diffuser case air seal assembly, the high-pressure turbine (HPT) 2nd-stage vane assembly, and the HPT 2nd-stage borescope stator vane assembly with parts eligible for installation. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective December 12, 2018.

ADDRESSES: For service information identified in this final rule, contact International Aero Engines, 400 Main Street, East Hartford, CT, 06118; phone: 800–565–0140; email: *help24@pw.utc.com;* internet: *http://fleetcare.pw.utc.com.* You may view this service information at the FAA, Engine and Propeller Standards Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call 781–238–7759. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0404.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0404; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other

information. The address for Docket Operations (phone: 800–647–5527) is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT:

Kevin M. Clark, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7088; fax: 781–238–7199; email: *kevin.m.clark@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 IAE PW1133G–JM, PW1133GA–JM, PW1130G–JM, PW1127G–JM, PW1127GA–JM, PW1127G1–JM, PW1124G–JM, PW1124G1–JM, and PW1122G–JM turbofan engines. The NPRM published in the **Federal Register** on June 11, 2018 (83 FR 26887). The NPRM was prompted by reports of in-flight engine shutdowns and aborted take-offs as the result of certain parts affecting the durability of the rear HPC rotor hub knife edge seal. The NPRM proposed to require replacing the diffuser case air seal assembly, the HPT 2nd-stage vane assembly, and the HPT 2nd-stage borescope stator vane assembly with parts eligible for installation. We are issuing this AD to address the unsafe condition on these products.

Comments

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

Request To Change Compliance Time

Air Line Pilots Association, International (ALPA) requested that paragraph (g) of this AD be changed to indicate by which cycle, hour, or date the ''engine shop visit'' and associated actions must be accomplished. ALPA stated that ''at the next engine shop visit'' is not prescriptive enough to ensure that affected parts are identified and removed from service within a timely manner.

We disagree. We determined that removal of the affected parts at the next engine shop visit resolves the unsafe condition within our risk guidelines. Therefore, we did not change this AD.

Request To Clarify Applicability

ALPA requested that we clarify whether engines repaired per paragraph (g) of this AD would be considered ''affected engines'' as described in AD 2018–04–01 (83 FR 6791, February 15, 2018), and what operational restrictions, if any, would exist on the engines repaired.

We partially agree. We agree that engines repaired per paragraph (g) of this AD are not ''affected engines'' as described in AD 2018–04–01. We disagree that adding clarification in paragraph (g) of this AD is necessary, because we released a Global Alternative Method of Compliance (AMOC) to paragraph (h) of AD 2018–04–01 (83 FR 6791, February 15, 2018). The Global AMOC removed the operational restrictions on an affected engine if Pratt & Whitney (PW) Alert Service Bulletin (ASB) PW1000G–C–72–00–0099–00A–930A–D, Issue No. 002, dated March 15, 2018 procedures were performed and the affected parts removed. Therefore, we did not change the AD.

Request To Clarify Affected Engine Serial Numbers (ESNs)

European Aviation Safety Agency (EASA) requested that we explain why paragraph (c) of this AD is limited to affected engines with ESNs P770450 to P770614, inclusive. EASA noted that PW ASB PW1000G–C–72–00–0099–00A–930A–D, Issue No. 002, dated March 15, 2018 identifies a substantially larger population, P770101 to P770614 inclusive, of affected engines.

We limited this AD to ESNs P770450 to P770614 because the affected part numbers are not known to be installed in earlier engine models. Therefore, we did not change this AD.

Request To Limit Applicability

All Nippon Airways requested that we limit the paragraph (c) of this AD to affected engines with diffuser case air seal assembly, part number (P/N) 30G4993–01, the HPT 2nd-stage vane assembly, P/N 30G7572, and HPT 2nd-stage borescope stator vane assembly, P/N 30G7672, installed.

We agree. We revised the paragraph (c) of this AD to list only those engines with ESNs P770450 through P770614 with diffuser case air seal assembly, P/N 30G4993–01; HPT 2nd-stage vane assembly, P/N 30G7572; and HPT 2nd-stage borescope stator vane assembly, P/N 30G7672, installed.

Request To Clarify Method of Compliance

Hawaiian Airlines stated engines that have incorporated PW ASB PW1000G–C–72–00–0099–00A–930A–D, Issue No. 002, dated March 15, 2018, or later revisions, should be shown as having complied with this AD.

We agree. PW ASB PW1000G–C–72–00–0099–00A–930A–D, Issue No. 002, dated March 15, 2018 can be used as a method to comply with paragraph (g) of this AD, because it requires removing and replacing the affected part numbers.

Request To Clarify How To Demonstrate Compliance

Hawaiian Airlines stated that complying with this AD would require removal of the diffuser case air seal assembly, P/N 30G4993–01; the HPT 2nd-stage vane assembly, P/N 30G7572; and the HPT 2nd-stage borescope stator vane assembly, P/N 30G7672 at the next engine shop visit. However, none of these P/Ns are individually documented by IAE or PW, either upon delivery or on maintenance, repair, and overhaul (MRO) documentation. Therefore, it would be difficult to demonstrate compliance with paragraph (g) of this AD.

We disagree. The operator must verify that their products comply with paragraph (g) of this AD. If overhaul facilities are used to perform maintenance, then documentation of the work completed must be provided to the operator to verify compliance with paragraph (g) of this AD. Therefore, we did not change this AD.

Request To Explain Differences in Applicability Between AD and Service Information

EASA requested that we explain why this AD applies to more engine models than PW ASB PW1000G–C–72–00–0099–00A–930A–D, Issue No. 002, dated March 15, 2018.

We disagree. This AD applies to all IAE PW1133G–JM, PW1133GA–JM, PW1130G–JM, PW1127G–JM, PW1127GA–JM, PW1127G1–JM, PW1124G–JM, PW1124G1–JM, and PW1122G–JM turbofan engines, because they are approved under type certificate, E00087EN. The PW ASB PW1000G–C–72–00–0099–00A–930A–D, Issue No. 002, dated March 15, 2018 only applies to PW1100G–JM engine models that are currently in service. Therefore, we did not change this AD.

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. We have determined that these minor changes:

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

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

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

Related Service Information

We reviewed PW ASB PW1000G–C–72–00–0099–00A–930A–D, Issue No. 002, dated March 15, 2018. This ASB describes procedures for the disassembly, removal, and replacement of the diffuser case air seal assembly, P/N 30G4993–01; the HPT 2nd-stage vane assembly, P/N 30G7572; and the HPT 2nd-stage borescope stator vane assembly, P/N 30G7672.

Interim Action

We consider this AD interim action. The manufacturer is currently developing a modification that will address the unsafe condition identified in this AD. Once this modification is developed, approved, and available, we might consider additional rulemaking.

Costs of Compliance

We estimate that this AD affects 16 engines installed on airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Removing and replacing parts	0 work-hours × $85 per hour = $0	$44,000	$44,000	$704,000

Authority for This Rulemaking

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

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

This AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is normally a function of the Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to engines, propellers, and associated appliances to the Manager, Engine and Propeller Standards Branch, Policy and Innovation Division.

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2018–21–10 International Aero Engines: Amendment 39–19468; Docket No. FAA–2018–0404; Product Identifier 2018–NE–15–AD.

(a) Effective Date

This AD is effective December 12, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to International Aero Engines (IAE) PW1133G–JM, PW1133GA–JM, PW1130G–JM, PW1127G–JM, PW1127GA–JM, PW1127G1–JM, PW1124G–JM, PW1124G1–JM, and PW1122G–JM turbofan engines with engine serial numbers (ESNs) P770450 through P770614, and with diffuser case air seal assembly part number (P/Ns) 30G4993–01, high-pressure turbine (HPT) 2nd-stage vane assembly, P/N 30G7572, or HPT 2nd-stage borescope stator vane assembly, P/N 30G7672, installed.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by reports of in-flight engine shutdowns and aborted take-offs that were the result of a failed knife edge seal on affected engines with ESNs P770450 through P770614. We are issuing this AD to prevent failure of the rear high-pressure compressor rotor hub knife edge seal. The unsafe condition, if not addressed, could result in failure of one or more engines, loss of thrust control, and loss of the airplane.

(f) Compliance

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

(g) Required Actions

At the next engine shop visit after the effective date of this AD, do the following:

(1) Remove from service the diffuser case air seal assembly, P/N 30G4993–01, and replace with a part eligible for installation.

(2) Remove from service the HPT 2nd-stage vane assembly, P/N 30G7572, and replace with a part eligible for installation.

(3) Remove from service HPT 2nd-stage borescope stator vane assembly, P/N 30G7672, and replace with a part eligible for installation.

(h) Definition

For the purpose of this AD, an ''engine shop visit'' is the induction of an engine into the shop for maintenance involving the

separation of pairs of major mating engine flanges (lettered flanges). The separation of engine flanges solely for the purpose of transportation of the engine without subsequent engine maintenance does not constitute an engine shop visit.

(i) Alternative Methods of Compliance (AMOCs)

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

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

(j) Related Information

For more information about this AD, contact Kevin M. Clark, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7088; fax: 781–238–7199; email: *kevin.m.clark@faa.gov.*

(k) Material Incorporated by Reference

None.

Issued in Burlington, Massachusetts, on October 31, 2018.

Robert J. Ganley,

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

[FR Doc. 2018–24239 Filed 11–6–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0908; Product Identifier 2018–NM–136–AD; Amendment 39–19486; AD 2018–22–13]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Airbus SAS Model A350–941 and –1041 airplanes. This AD was prompted by a technical issue detected on the inboard aileron electro-hydrostatic actuators that caused potential erroneous monitoring of those actuators. This AD requires revising the airplane flight manual to provide the flightcrew with updated procedures related to inboard aileron fault operations. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD becomes effective November 23, 2018.

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

We must receive comments on this AD by December 24, 2018.

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

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

For service information identified in this final rule, contact Airbus SAS, Airworthiness Office—EAL, Rond-Point Emile Dewoitine No: 2, 31700 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *continued-airworthiness.a350@airbus.com;* internet *http://www.airbus.com.* You may view this referenced service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0908.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0908; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Kathleen Arrigotti, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3218.

SUPPLEMENTARY INFORMATION:

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2018–0213, dated October 1, 2018 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus SAS Model A350–941 and -1041 airplanes. The MCAI states:

> A technical issue was detected on the inboard aileron electro-hydrostatic actuators, causing potential erroneous monitoring of those actuators. Consequently, in-flight loss of inboard aileron control may occur, which, due to the resulting drag, would lead to increased fuel consumption.
>
> This condition, if not corrected, and if combined with one engine inoperative, could result in reduced control or performance of the aeroplane.
>
> To address this potential unsafe condition, Airbus issued the AFM [airplane flight manual] TR [temporary revision] and Flight Operations Transmission (FOT) 999.0062/18, informing operators that Airbus provides two different Airbus Temporary Quick Changes (ATQC) to the Electronic Centralized Aircraft Monitoring (ECAM), depending on the installed FWS [flight warning system] standard, either STD S4/2.0 or STD S5/2.2, as applicable, and issued the applicable SB [service bulletin] accordingly, providing modification instructions.
>
> For the reasons described above, this [EASA] AD requires amendment of the applicable AFM and installation of ATQC V4, followed by ECAM Temporary Change (ETC) activation, to update the procedures related to inboard aileron fault operations.
>
> This AD is considered to be an interim action and further AD action may follow.

You may examine the MCAI on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0908.

Related Service Information Under 1 CFR Part 51

Airbus has issued Airbus A350 Temporary Revision (TR) 113, Issue 1.0, dated July 27, 2018, which provides updated procedures related to inboard aileron fault operations. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

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

Requirements of This AD

This AD requires revising the Abnormal Procedures section of the AFM, as specified in the service information described previously.

Difference Between This AD and the MCAI

In addition to the AFM revision, the MCAI requires installing two different ATQCs to the ECAM. We are considering requiring the installation of the ATQCs, but the planned compliance time for these actions would allow enough time to provide notice and opportunity for prior public comment on the merits of the installations.

FAA's Justification and Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because erroneous monitoring of the inboard aileron electro-hydrostatic actuators could result in in-flight loss of inboard aileron control, consequent increased fuel consumption due to the resulting drag, and reduced control or performance of the airplane if one engine is also inoperative. Therefore, we find good cause that notice and opportunity for prior public comment are impracticable. In addition, for the reason stated above, we find that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2018–0908; Product Identifier 2018–NM–136–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD based on those comments.

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

Costs of Compliance

We estimate that this AD affects 11 airplanes of U.S. registry. We estimate the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
1 work-hour × $85 per hour = $85	$0	$85	$935

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

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2018–22–13 Airbus SAS: Amendment 39–19486; Docket No. FAA–2018–0908; Product Identifier 2018–NM–136–AD.

(a) Effective Date

This AD becomes effective November 23, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus SAS Model A350–941 and -1041 airplanes, certificated in any category, except those on which the modifications specified in paragraph (c)(1) or (c)(2) of this AD, as applicable, have been embodied in production.

(1) Airbus modifications 113759 and 113758.

(2) Airbus modifications 113760 and 113758.

(d) Subject

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

(e) Reason

This AD was prompted by a technical issue detected on the inboard aileron electro-hydrostatic actuators that caused potential erroneous monitoring of those actuators. We are issuing this AD to address possible in-flight loss of inboard aileron control, consequent increased fuel consumption due to the resulting drag, and reduced control or performance of the airplane if one engine is also inoperative.

(f) Compliance

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

(g) Revision of the Airplane Flight Manual (AFM)

Within 30 days after the effective date of this AD, revise the Abnormal Procedures section of the AFM to include the information in Airbus A350 Temporary Revision (TR) 113, Issue 1.0, dated July 27, 2018, which introduces updated procedures related to inboard aileron fault operations. This may be done by inserting a copy of TR 113, Issue 1.0, dated July 27, 2018, into the AFM. When TR 113, Issue 1.0, dated July 27, 2018, has been included in general revisions of the AFM, the general revisions may be inserted into the AFM, provided the relevant information in the general revisions is identical to that in TR 113, Issue 1.0, dated July 27, 2018, and the TR may be removed. Operate the airplane according to the procedures in TR 113, Issue 1.0, dated July 27, 2018. In case any discrepancy is identified between procedures displayed on the electronic centralized aircraft monitoring (ECAM) and procedures stated in the applicable AFM, the AFM procedures prevail.

(h) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

(3) *Required for Compliance (RC):* If any service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified 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 procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(i) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2018–0213, dated October 1, 2018, for related information. This MCAI may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0908.

(2) For more information about this AD, contact Kathleen Arrigotti, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3218.

(j) Material Incorporated by Reference

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

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

(i) Airbus A350 Temporary Revision (TR) 113, Issue 1.0, dated July 27, 2018.

(ii) Reserved.

(3) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAL, Rond-Point Emile Dewoitine No: 2, 31700 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *continued-airworthiness.a350@airbus.com;* internet *http://www.airbus.com.*

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

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

Issued in Des Moines, Washington, on October 22, 2018.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–23991 Filed 11–6–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0431; Product Identifier 2018–NE–16–AD; Amendment 39–19475; AD 2018–22–02]

RIN 2120–AA64

Airworthiness Directives; International Aero Engines Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all International Aero Engines (IAE) PW1133G–JM, PW1133GA–JM, PW1130G–JM, PW1127G–JM, PW1127GA–JM, PW1127G1–JM, PW1124G–JM, PW1124G1–JM, and PW1122G–JM turbofan engines with a certain high-pressure compressor (HPC) front hub installed. This AD was prompted by corrosion found on the HPC front hub. This AD requires replacing the HPC front hub with a part eligible for installation. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective December 12, 2018.

ADDRESSES: For service information identified in this final rule, contact International Aero Engines (IAE), 400 Main Street, East Hartford, CT, 06118; phone: 800–565–0140; email: *help24@pw.utc.com;* internet: *http://fleetcare.pw.utc.com.* You may view this service information at the FAA, Engine and Propeller Standards Branch, 1200

District Avenue, Burlington, MA, 01803. For information on the availability of this material at the FAA, call 781–238–7759. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0431.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0431; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations (phone: 800–647–5527) is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC, 20590.

FOR FURTHER INFORMATION CONTACT: Kevin M. Clark, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA, 01803; phone: 781–238–7088; fax: 781–238–7199; email: *kevin.m.clark@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 IAE PW1133G–JM, PW1133GA–JM, PW1130G–JM, PW1127G–JM, PW1127GA–JM, PW1127G1–JM, PW1124G–JM, PW1124G1–JM, and PW1122G–JM turbofan engines with a certain HPC front hub installed. The NPRM published in the **Federal Register** on June 28, 2018 (83 FR 30370). The NPRM was prompted by a report that corrosion was found on HPC front hub, part number (P/N) 30G2401. The HPC front hub exhibited deposits that could not be removed using standard procedures and worsened over time. After further investigation, pitting corrosion was found below the painted surface. This condition, if not addressed, could result in uncontained HPC front hub release, damage to the engine, and damage to the airplane. The NPRM proposed to require replacing the HPC front hub with a part eligible for installation. We are issuing this AD to address the unsafe condition on these products.

Comments

We gave the public the opportunity to participate in developing this final rule. We have considered the comment received on the NPRM and the FAA's response to each comment.

Request Clarification on CSN Limit

All Nippon Airways requested that we clarify which cycles since new (CSN) limit for this AD is correct. ANA stated the PW Service Bulletin PW1000G–C–72–00–0106–00A–930A–D, dated June 15, 2018 specifies a limit of 4,400 cycles since new (CSN), while paragraph (g) of this AD specifies a limit of 4,440 CSN.

We disagree. The AD limit of 4,440 CSN is correct. We found that 4,440 CSN provides an acceptable level of safety, and reducing the CSN limit in this AD to match the SB is not required. Therefore, we did not change this AD.

Conclusion

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

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

Related Service Information

We reviewed Section PW1000G–C–05–10–00–02A–288A–D of the PW1100G–JM Series Airworthiness Limitations Manual, P/N 5316993, dated September 30, 2015. Section PW1000G–C–05–10–00–02A–288A–D provides guidance for an approved FAA method of mixed model cycles since new calculation.

Costs of Compliance

We estimate that this AD affects 16 engines installed on airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Replace HPC front hub	0 work-hours × $85 per hour = $85	$11,600	$11,600	$185,600

Authority for This Rulemaking

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

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

This AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is normally a function of the Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to engines, propellers, and associated appliances to the Manager, Engine and Propeller Standards Branch, Policy and Innovation Division.

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

AD 2018–22–02 International Aero Engines: Amendment 39–19475; Docket No. FAA–2018–0431; Product Identifier 2018–NE–16–AD.

(a) Effective Date

This AD is effective December 12, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to International Aero Engines (IAE) PW1133G–JM, PW1133GA–JM, PW1130G–JM, PW1127G–JM, PW1127GA–JM, PW1127G1–JM, PW1124G–JM, PW1124G1–JM, and PW1122G–JM turbofan engines with a high-pressure compressor (HPC) front hub, part number (P/N) 30G2401, installed.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by corrosion found on the HPC front hub, P/N 30G2401, installed. We are issuing this AD to prevent cracking and failure of the HPC front hub. The unsafe condition, if not addressed, could result in uncontained HPC front hub release, damage to the engine, and damage to the airplane.

(f) Compliance

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

(g) Required Actions

Remove from service the HPC front hub, P/N 30G2401, within 120 days after the effective date of this AD, or as follows, whichever occurs later, and replace with a part eligible for installation:

(1) For PW1122G–JM, PW1124G1–JM, PW1124G–JM, PW1127G1–JM, PW1127GA–JM, and PW1127G–JM engines, remove the HPC front hub before exceeding 6,180 cycles since new (CSN) or within five years since the ship date listed in Table 1 to paragraph (g) of this AD, whichever occurs first.

(2) For PW1130G–JM, PW1133GA–JM, and PW1133G–JM engines, remove the HPC front hub before exceeding 4,440 CSN or within four years since the ship date listed in Table 1 to paragraph (g) of this AD, whichever occurs first.

(3) For engines operating as a mix of models listed in paragraphs (g)(1) and (2) of this AD, remove the HPC front hub using a CSN calculated by an approved FAA method or within four years since the ship date listed in Table 1 to paragraph (g) of this AD, whichever occurs first. You may find guidance for an approved FAA method of mixed model CSN calculation in Section PW1000G–C–05–10–00–02A–288A–D of the PW1100G–JM Series Airworthiness Limitations Manual, P/N 5316993, dated September 30, 2015.

(4) For any HPC front hub, P/N 30G2401, whose serial number is not listed in Table 1 to paragraph (g) of this AD, use October 21, 2015, as the ship date.

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Table 1 to Paragraph (g) - Steel Front Hub Ship Date

Steel Front Hub Serial Number	Ship Date	Originally Installed in Engine Serial Number
LENCAJ3513	10/23/2015	P770121
LENCAJ4524	11/6/2015	P770125
LENCAJ2782	11/25/2015	P770126
LENCAJ2794	11/9/2015	P770127
LENCAJ4527	11/17/2015	P770128
LENCAJ3500	11/16/2015	P770129
LENCAJ4508	11/23/2015	P770130
LENCAJ3505	6/20/2016	P770131
LENCAJ4518	12/2/2015	P770132
LENCAJ3507	12/31/2015	P770133
LENCAJ2789	12/22/2015	P770134
LENCAJ4516	12/12/2015	P770135
LENCAJ3509	12/31/2015	P770136
LENCAJ3511	12/28/2015	P770137
LENCAJ4538	1/6/2016	P770138
LENCAJ4535	1/8/2016	P770139
LENCAJ2788	1/17/2016	P770140
LENCAJ4512	1/17/2016	P770141
LENCAJ3502	1/31/2016	P770142
LENCAJ3503	2/7/2016	P770143
LENCAJ4540	1/31/2016	P770144
LENCAJ3510	2/17/2016	P770145
LENCAJ4539	2/14/2016	P770146
LENCAJ4525	2/25/2016	P770147
LENCAJ4531	2/20/2016	P770148
LENCAJ4510	3/14/2016	P770149
LENCAJ4522	2/27/2016	P770150
LENCAJ3506	2/27/2016	P770151
LENCAJ4532	3/11/2016	P770153
LENCAJ3506	3/17/2016	P770154
LENCAJ4534	3/31/2016	P770155
LENCAJ4548	6/13/2016	P770160
LENCAJ4552	5/6/2016	P770161
LENCAJ4521	4/30/2016	P770163
LENCAJ4529	4/30/2016	P770164
LENCAJ4520	4/28/2016	P770165
LENCAJ4544	4/30/2016	P770166
LENCAJ4511	8/25/2016	P770167
LENCAJ4549	8/26/2016	P770168

LENCAJ4553	5/19/2016	P770169
LENCAJ4551	5/19/2016	P770170
LENCAJ4517	5/21/2016	P770171
LENCAJ4543	5/19/2016	P770172
LENCAJ4513	5/31/2016	P770173
LENCAJ4550	5/20/2016	P770174
LENCAJ4530	6/8/2016	P770175
LENCAJ4533	5/26/2016	P770176
LENCAJ4515	6/8/2016	P770177
LENCAJ4563	6/26/2016	P770178
LENCAJ4545	6/10/2016	P770179
LENCAJ4542	6/10/2016	P770180
LENCAJ4546	6/22/2016	P770181
LENCAJ4566	6/22/2016	P770182
LENCAJ4558	6/23/2016	P770183
LENCAJ4507	8/31/2016	P770184
LENCAK4516	8/29/2016	P770185
LENCAJ3508	7/8/2016	P770186
LENCAJ4572	6/30/2016	P770187
LENCAJ4573	6/28/2016	P770188
LENCAJ4555	6/29/2016	P770189
LENCAJ4565	6/30/2016	P770190
LENCAJ4559	7/5/2016	P770191
LENCAJ4570	7/16/2016	P770192
LENCAJ4560	7/23/2016	P770193
LENCAJ4571	7/23/2016	P770194
LENCAJ4562	7/25/2016	P770195
LENCAJ4526	8/12/2016	P770196
LENCAJ4561	8/9/2016	P770197
LENCAJ4504	7/29/2016	P770198
LENCAJ4579	8/7/2016	P770199
LENCAJ4519	8/3/2016	P770200
LENCAK4517	8/9/2016	P770201
LENCAJ4595	8/17/2016	P770202
LENCAK4523	8/30/2016	P770203
LENCAK4505	8/15/2016	P770204
LENCAJ4541	8/31/2016	P770205
LENCAJ4592	8/22/2016	P770206
LENCAJ4569	9/30/2016	P770207
LENCAK4512	8/29/2016	P770208
LENCAK4518	10/7/2016	P770210
LENCAK4541	8/31/2016	P770211
LENCAK4535	9/17/2016	P770212

LENCAJ4584	9/20/2016	P770213
LENCAK4538	9/3/2016	P770214
LENCAK4533	11/30/2016	P770215
LENCAJ4594	9/23/2016	P770216
LENCAJ4509	10/25/2016	P770217
LENCAK4526	9/16/2016	P770218
LENCAK4532	9/19/2016	P770219
LENCAJ4602	9/22/2016	P770220
LENCAK4513	9/27/2016	P770221
LENCAK5147	10/19/2016	P770222
LENCAK4536	10/19/2016	P770223
LENCAK4522	9/30/2016	P770224
LENCAJ4578	12/29/2016	P770225
LENCAJ4596	9/30/2016	P770226
LENCAJ4575	10/4/2017	P770227
LENCAJ4577	12/5/2016	P770228
LENCAJ4597	10/12/2016	P770229
LENCAJ4588	10/19/2016	P770230
LENCAK4552	10/14/2016	P770231
LENCAJ4537	10/29/2016	P770232
LENCAJ4586	10/21/2016	P770233
LENCAJ4528	11/18/2016	P770234
LENCAJ4554	12/29/2016	P770235
LENCAK4553	11/1/2016	P770236
LENCAJ4598	11/18/2016	P770237
LENCAK4550	12/5/2016	P770238
LENCAJ4603	12/5/2016	P770239
LENCAJ4585	12/5/2016	P770240
LENCAK4537	12/2/2016	P770241
LENCAK4520	11/8/2016	P770242
LENCAK4528	12/2/2016	P770243
LENCAK5171	11/30/2016	P770244
LENCAK4549	12/5/2016	P770245
LENCAJ4557	12/5/2016	P770246
LENCAK4515	12/7/2016	P770247
LENCAJ4601	1/8/2017	P770248
LENCAK4511	12/7/2016	P770249
LENCAJ4581	2/21/2017	P770250
LENCAK5182	11/30/2016	P770251
LENCAK5153	11/30/2016	P770252
LENCAJ4576	12/12/2016	P770253
LENCAK4539	2/26/2017	P770254
LENCAJ4591	8/23/2017	P770255

LENCAK5166	12/15/2016	P770256
LENCAK5193	12/17/2016	P770258
LENCAK5149	12/21/2016	P770259
LENCAK5157	3/28/2017	P770260
LENCAK5191	12/20/2016	P770261
LENCAK5176	12/20/2016	P770262
LENCAK4545	12/21/2016	P770263
LENCAK5192	12/22/2016	P770264
LENCAK4548	12/23/2016	P770265
LENCAK5154	12/27/2016	P770266
LENCAK5163	12/28/2016	P770267
LENCAK5184	12/23/2016	P770268
LENCAK4507	12/31/2016	P770269
LENCAK5165	2/2/2017	P770270
LENCAK5173	12/29/2016	P770271
LENCAJ4589	12/29/2016	P770272
LENCAK5179	12/31/2016	P770273
LENCAK4543	1/10/2017	P770275
LENCAK4510	3/31/2017	P770276
LENCAK5156	1/17/2017	P770277
LENCAK5169	1/16/2017	P770278
LENCAK4524	1/19/2017	P770279
LENCAK5187	1/24/2017	P770280
LENCAK5175	1/24/2017	P770281
LENCAK4546	1/25/2017	P770282
LENCAK5185	1/24/2017	P770283
LENCAK5162	2/8/2017	P770284
LENCAK5150	8/25/2017	P770285
LENCAK5144	3/31/2017	P770286
LENCAJ2787	1/31/2017	P770287
LENCAK4554	1/25/2017	P770288
LENCAK5186	1/31/2017	P770289
LENCAK5172	1/31/2017	P770290
LENCAK5170	1/31/2017	P770291
LENCAK5155	2/6/2017	P770292
LENCAK5164	2/7/2017	P770293
LENCAK5168	2/13/2017	P770294
LENCAK4514	2/14/2017	P770295
LENCAK5189	6/22/2017	P770296
LENCAK7184	2/16/2017	P770297
LENCAK5146	2/28/2017	P770298
LENCAK5151	2/27/2017	P770299
LENCAK5152	8/14/2017	P770300

LENCAK4527	2/20/2017	P770301
LENCAK5180	8/21/2017	P770302
LENCAJ4567	4/19/2017	P770303
LENCAK5148	3/5/2017	P770304
LENCAJ4590	2/25/2017	P770305
LENCAK4525	3/13/2017	P770306
LENCAK4551	4/25/2017	P770308
LENCAK5142	3/11/2017	P770311
LENCAK5143	2/28/2017	P770312
LENCAK4542	3/14/2017	P770313
LENCAK5181	3/8/2017	P770315
LENCAK7185	3/19/2017	P770316
LENCAK5161	3/21/2017	P770317
LENCAK4544	3/31/2017	P770333
LENCAJ4574	5/25/2017	P770348
LENCAK5183	7/3/2017	P770395
LENCAK4531	11/7/2016	SPARE
LENCAL3099	2/23/2017	SPARE
LENCAK5188	11/3/2017	SPARE
LENCAK5228	12/27/2017	SPARE
LENCAJ4582	12/27/2017	SPARE
LENCAL3091	2/1/2018	SPARE
LENCAK5237	2/5/2018	SPARE
LENCAK5227	2/5/2018	SPARE
LENCAL3092	2/5/2018	SPARE

BILLING CODE 4910–13–C

(h) Alternative Methods of Compliance (AMOCs)

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

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

(i) Related Information

For more information about this AD, contact Kevin M. Clark, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA, 01803; phone: 781–238–7088; fax: 781–238–7199; email: *kevin.m.clark@faa.gov.*

(j) Material Incorporated by Reference

None.

Issued in Burlington, MA, on November 01, 2018.

Robert J. Ganley,

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

[FR Doc. 2018–24250 Filed 11–6–18; 8:45 am]

BILLING CODE 4910–13–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 418

[Docket No. SSA–2018–0041]

RIN 0960–AI37

Income-Related Monthly Adjustment Amounts for Medicare Part B and Prescription Drug Coverage Premiums

AGENCY: Social Security Administration.

ACTION: Final rule.

SUMMARY: The Medicare Access and CHIP Reauthorization Act of 2015 (MACRA) changed the modified adjusted gross income (MAGI) ranges associated with Medicare Part B and Medicare prescription drug coverage premiums for years beginning in 2018. The Bipartisan Budget Act of 2018 (BBA 2018) revised the MAGI ranges again for years beginning with 2019. We consider a beneficiary's MAGI and tax filing status to determine: The percentage of the unsubsidized Medicare Part B premium that the beneficiary must pay; and the percentage of the cost of basic Medicare prescription drug coverage the beneficiary must pay. This final rule makes our regulations consistent with the MAGI ranges specified by MACRA and BBA 2018.

DATES: This rule is effective November 7, 2018.

FOR FURTHER INFORMATION CONTACT: Donald Murphy, Office of Income Security Programs, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 965–9090. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213, or TTY 1–800–325–0778, or visit our internet site, Social Security Online, at *http://www.socialsecurity.gov.*

SUPPLEMENTARY INFORMATION:

Background

For Medicare Part B, the income-related monthly adjustment amount (IRMAA) is the amount that a beneficiary must pay in addition to the Medicare Part B standard monthly premium when the beneficiary's MAGI is above a specified threshold.[1] For Medicare prescription drug coverage, IRMAA is an amount that a beneficiary will pay in addition to the Medicare prescription drug coverage plan monthly premium when the beneficiary's MAGI is above the specified threshold.[2]

To determine a beneficiary's IRMAA, we consider the beneficiary's MAGI, together with tax filing status, to determine: (1) The percentage of the unsubsidized Medicare Part B premium the beneficiary must pay; and (2) the percentage of the cost of basic Medicare prescription drug coverage that the beneficiary must pay.

In our regulations, we use lists and tables to show the MAGI ranges we use to determine IRMAA for specific years. The lists associated with both Medicare Part B and Medicare prescription drug coverage specify the MAGI ranges. The tables associated with Medicare Part B show, within each MAGI range, the percentage of the unsubsidized Medicare Part B premium that beneficiaries must pay and the percentage that will be subsidized by contributions from the Federal Government. The tables associated with prescription drug coverage show, within each MAGI range, the percentage of the cost of basic Medicare prescription drug coverage the beneficiaries must pay.

MACRA[3] changed the MAGI ranges associated with Medicare Part B and prescription drug coverage premiums for years beginning in 2018. BBA 2018[4] changed the MAGI ranges associated with Medicare Part B and prescription drug coverage premiums for years beginning in 2019. Based on these changes, we revised the lists and tables to show the updated MAGI ranges and associated figures for 2018 and for years beginning in 2019. In each case, the MAGI ranges are subject to an inflation adjustment for calendar years beginning in 2020, as we explain in sections 418.1105(c), 418.1115(e), 418.2105(c), and 418.2115(e).

[1] Medicare Part B standard monthly premiums may also be increased for late enrollment and for reenrollment. See 42 CFR 408.22 for an explanation.

[2] Medicare prescription drug coverage premiums may also be increased for the reasons found in 42 CFR 423.286.

[3] Public Law 114–10, section 402, 129 Stat. 87, 160.

[4] Public Law 115–123, section 53114.

Explanation of Changes

The changes detailed below make our regulations consistent with the updates specified by MACRA and BBA 2018.

In § 418.1115 and § 418.2115, we updated the lists of MAGI ranges for beneficiaries of all tax filing statuses for 2018 and for years beginning in 2019.

In § 418.1120 and § 418.2120, we added tables to show the figures that are applicable for 2018 and for years beginning in 2019. The tables in § 418.1120 show the updated MAGI ranges, and within each range, the percentage of the unsubsidized Medicare Part B premium that will be paid by beneficiaries and the percentage of the Medicare Part B premium that will be subsidized by contributions from the Federal Government. The tables in § 418.2120 show the updated MAGI ranges, and within each range, the percentage of the cost of basic Medicare prescription drug coverage that beneficiaries will pay.

We also made minor conforming changes in these sections.

Regulatory Procedures

We follow the Administrative Procedure Act (APA) rulemaking procedures specified in 5 U.S.C. 553 when we develop regulations. Generally, the APA requires that an agency provide prior notice and opportunity for public comment before issuing a final rule. The APA provides exceptions to its notice and public comment procedures when an agency finds there is good cause for dispensing with such procedures because they are impracticable, unnecessary, or contrary to the public interest.

We find that there is good cause under 5 U.S.C. 553(b)(B) to issue this regulatory change as a final rule without prior public comment. We find that prior public comment is unnecessary because this final rule merely makes our regulations (20 CFR 418.1115, 418.1120, 418.2115, and 418.2120) consistent with the MAGI ranges specified by MACRA and BBA 2018. BBA 2018 indicated that the new amounts for 2019 must be in place by calendar year 2019. Importantly, we have no agency discretion for establishing these figures. Accordingly, we find there is good cause to issue this final rule without prior public comment.

In addition, we find that there is good cause for dispensing with the 30-day delay in the effective date of a substantive rule provided by 5 U.S.C. 553(d)(3). As we explained above, these final rules merely make our regulations consistent with the MAGI ranges specified by Congress in the law. Those MAGI ranges need to be in place by calendar year 2019. We find that it is unnecessary to delay the effective date of the final rule because the rule merely reflects the changes to the law that Congress has already made. In addition, we find that it is in the public interest to make this final rule effective on the date of publication in order to ensure that our rules accurately reflect the statute when the MAGI ranges for 2019 become effective.

Executive Order (E.O.) 12866, as Supplemented by E.O. 13563

We consulted with the Office of Management and Budget (OMB) and determined that this final rule does not meet the criteria for a significant regulatory action under E.O. 12866, as supplemented by E.O. 13563. Thus, OMB did not review the final rule.

We also determined that this final rule meets the plain language requirement of E.O. 12866.

E.O. 13132 (Federalism)

We analyzed this rule in accordance with the principles and criteria established by Executive Order 13132, and determined that the rule will not have sufficient Federalism implications to warrant the preparation of a Federalism assessment. We also determined that this rule will not preempt any State law or State regulation or affect the States' abilities to discharge traditional State governmental functions.

Regulatory Flexibility Act

We certify that these rules will not have a significant economic impact on a substantial number of small entities because they affect individuals only. Therefore, a regulatory flexibility analysis is not required under the Regulatory Flexibility Act, as amended.

E.O. 13771

This regulation does not impose novel costs on the public and as such is considered an exempt regulatory action under E.O. 13771.

Paperwork Reduction Act

This rule does not create any new or affect any existing collections and, therefore, does not require Office of Management and Budget approval under the Paperwork Reduction Act.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security—Disability Insurance; 96.002, Social Security—Retirement Insurance; 96.004, Social Security—Survivors Insurance; and 96.006, Supplemental Security Income).

List of Subjects in 20 CFR Part 418

Administrative practice and procedure, Aged, Blind, Disability benefits, Medicare, Reporting and recordkeeping requirements.

Nancy A. Berryhill,

Acting Commissioner of Social Security.

For the reasons set forth in the preamble, we amend subpart B and subpart C of part 418 of title 20 of the Code of Federal Regulations as set forth below:

PART 418—MEDICARE SUBSIDIES

Subpart B—Medicare Part B Income-Related Monthly Adjustment Amount

■ 1. The authority citation for subpart B of part 418 continues to read as follows:

Authority: Secs. 702(a)(5) and 1839(i) of the Social Security Act (42 U.S.C. 902(a)(5) and 1395r(i)).

■ 2. Amend § 418.1001 by revising the first sentence of the introductory text to read as follows:

§ 418.1001 What is this subpart about?

This subpart relates to section 1839(i) of the Social Security Act (the Act), as amended. * * *

* * * * *

■ 3. Amend § 418.1115 by:

■ a. Revising the first sentence of paragraph (a); and

■ b. Revising paragraphs (b), (c), (d), and (e).

The revisions read as follows:

§ 418.1115 What are the modified adjusted gross income ranges?

(a) We list the modified adjusted gross income ranges for the calendar years 2011 through and including 2017, 2018, and for years beginning in 2019 for each Federal tax filing category in paragraphs (b), (c) and (d) of this section. * * *

(b) The modified adjusted gross income ranges for individuals with a Federal tax filing status of single, head of household, qualifying widow(er) with dependent child, and married filing separately when the individual has lived apart from his/her spouse for the entire tax year for the year we use to make our income-related monthly adjustment amount determination are as follows.

(1) For calendar years 2011 through and including 2017—

(i) Greater than $85,000 but less than or equal to $107,000;

(ii) Greater than $107,000 but less than or equal to $160,000;

(iii) Greater than $160,000 but less than or equal to $214,000; and

(iv) Greater than $214,000.

(2) For calendar year 2018—

(i) Greater than $85,000 but less than or equal to $107,000;

(ii) Greater than $107,000 but less than or equal to $133,500;

(iii) Greater than $133,500 but less than or equal to $160,000; and

(iv) Greater than $160,000

(3) For calendar years beginning with 2019—

(i) Greater than $85,000 but less than or equal to $107,000;

(ii) Greater than $107,000 but less than or equal to $133,500;

(iii) Greater than $133,500 but less than or equal to $160,000;

(iv) Greater than $160,000 but less than $500,000; and

(v) Greater than or equal to $500,000.

(c) The modified adjusted gross income ranges for individuals who are married and filed a joint tax return for the tax year we use to make the income-related monthly adjustment amount determination are as follows.

(1) For calendar years 2011 through and including 2017—

(i) Greater than $170,000 but less than or equal to $214,000;

(ii) Greater than $214,000 but less than or equal to $320,000;

(iii) Greater than $320,000 but less than or equal to $428,000; and

(iv) Greater than $428,000.

(2) For calendar year 2018—

(i) Greater than $170,000 but less than or equal to $214,000;

(ii) Greater than $214,000 but less than or equal to $267,000;

(iii) Greater than $267,000 but less than or equal to $320,000; and

(iv) Greater than $320,000.

(3) For calendar years beginning in 2019—

(i) Greater than $170,000 but less than or equal to $214,000;

(ii) Greater than $214,000 but less than or equal to $267,000;

(iii) Greater than $267,000 but less than or equal to $320,000;

(iv) Greater than $320,000 but less than $750,000; and

(v) Greater than or equal to $750,000.

(d) The modified adjusted gross income ranges for married individuals who file a separate return and have lived with their spouse at any time during the tax year we use to make the income-related monthly adjustment amount determination are as follows.

(1) For calendar years 2011 through and including 2017—

(i) Greater than $85,000 but less than or equal to $129,000; and

(ii) Greater than $129,000.

(2) For calendar year 2018—Greater than $85,000.

(3) For calendar years beginning in 2019—

(i) Greater than $85,000 but less than $415,000; and

(ii) Greater than or equal to $415,000.

(e)(1) Subject to paragraph (e)(2) of this section, in 2019, CMS will set the modified adjusted gross income ranges for 2020 and publish them in the **Federal Register**. In each year thereafter, CMS will set the modified adjusted gross income ranges by increasing the preceding year's ranges by any percentage increase in the Consumer Price Index rounded to the nearest $1,000 and will publish the amounts for the following year in September of each year.

(2) The amounts listed in paragraphs (b), (c), and (d) of $415,000, $500,000, and $750,000 will not be adjusted under paragraph (e)(1) of this section until 2028. Beginning in 2027, and in each year thereafter, CMS will adjust these range amounts for the following year under paragraph (e)(1) of this section and publish the updated ranges in the **Federal Register**.

■ 4. Amend § 418.1120 by revising paragraph (b) to read as follows:

§ 418.1120 How do we determine your income-related monthly adjustment amount?

* * * * *

(b) *Tables of applicable percentage.* The tables in paragraphs (b)(1) through (b)(3) of this section contain the modified adjusted gross income ranges for calendar years 2011 through and including 2017, 2018, and beginning in 2019 in the column on the left in each table. The middle column in each table shows the percentage of the unsubsidized Medicare Part B premium that will be paid by individuals with modified adjusted gross income that falls within each of the ranges. The column on the right in each table shows the percentage of the Medicare Part B premium that will be subsidized by contributions from the Federal Government. We use your tax filing status and your modified adjusted gross income for the tax year to determine which income-related monthly adjustment amount to apply to you. The dollar amount of income-related monthly adjustment for each range will be set annually for each year after 2019 as described in paragraph (c) of this section. The modified adjusted gross income ranges will be adjusted annually after 2019 as described in § 418.1115(e).

(1) *General tables of applicable percentages.* If, for the tax year, we use your filing status for your Federal income taxes for the tax year is single; head of household; qualifying widow(er) with dependent child; or married filing separately and you lived

apart from your spouse for the entire tax year, we will use the general tables of applicable percentages. When your modified adjusted gross income for the year we use is in the range listed in the left column in the following tables, then the Federal Government's Part B premium subsidy of 75 percent is reduced to the percentage listed in the right column. You will pay an amount based on the percentage listed in the center column.

Table 1 to paragraph (b)(1): Modified adjusted gross income effective in 2011–2017	Beneficiary percentage (percent)	Federal premium subsidy (percent)
Greater than $85,000 but less than or equal to $107,000	35	65
Greater than $107,000 but less than or equal to $160,000	50	50
Greater than $160,000 but less than or equal to $214,000	65	35
Greater than $214,000	80	20

Table 2 to paragraph (b)(1): Modified adjusted gross income effective in 2018	Beneficiary percentage (percent)	Federal premium subsidy (percent)
Greater than $85,000 but less than or equal to $107,000	35	65
Greater than $107,000 but less than or equal to $133,500	50	50
Greater than $133,500 less than or equal to $160,000	65	35
Greater than $160,000	80	20

Table 3 to paragraph (b)(1): Modified adjusted gross income effective beginning in 2019	Beneficiary percentage (percent)	Federal premium subsidy (percent)
Greater than $85,000 but less than or equal to $107,000	35	65
Greater than $107,000 but less than or equal to $133,500	50	50
Greater than $133,500 but less than or equal to $160,000	65	35
Greater than $160,000 but less than $500,000	80	20
Greater than or equal to $500,000	85	15

(2) *Tables of applicable percentages for joint returns.* If, for the tax year, we use your Federal tax filing status is married filing jointly for the tax year and your modified adjusted gross income for that tax year is in the range listed in the left column in the following tables, then the Federal Government's Part B premium subsidy of 75 percent is reduced to the percentage listed in the right column. You will pay an amount based on the percentage listed in the center column.

Table 1 to paragraph (b)(2): Modified adjusted gross income effective in 2011–2017	Beneficiary percentage (percent)	Federal premium subsidy (percent)
Greater than $170,000 but less than or equal to $214,000	35	65
Greater than $214,000 but less than or equal to $320,000	50	50
Greater than $320,000 but less than or equal to $428,000	65	35
Greater than $428,000	80	20

Table 2 to paragraph (b)(2): Modified adjusted gross income effective in 2018	Beneficiary percentage (percent)	Federal premium subsidy (percent)
Greater than $170,000 but less than or equal to $214,000	35	65
Greater than $214,000 but less than or equal to $267,000	50	50
Greater than $267,000 but less than or equal to $320,000	65	35
Greater than $320,000	80	20

Table 3 to paragraph (b)(2): Modified adjusted gross income effective beginning in 2019	Beneficiary percentage (percent)	Federal premium subsidy (percent)
Greater than $170,000 but less than or equal to $214,000	35	65
Greater than $214,000 but less than or equal to $267,000	50	50
Greater than $267,000 but less than or equal to $320,000	65	35
Greater than $320,000 but less than $750,000	80	20
Greater than or equal to $750,000	85	15

(3) *Tables of applicable percentages for married individuals filing separate returns.* If, for the tax year, we use your Federal tax filing status is married filing separately, you lived with your spouse at some time during that tax year, and your modified adjusted gross income is in the range listed in the left column in the following tables, then the Federal Government's Part B premium subsidy of 75 percent is reduced to the percentage listed in the right column. You will pay an amount based on the percentage listed in the center column.

Table 1 to paragraph (b)(3): Modified adjusted gross income effective in 2011–2017	Beneficiary percentage (percent)	Federal premium subsidy (percent)
Greater than $85,000 but less than or equal to $129,000	65	35
Greater than $129,000	80	20

Table 2 to paragraph (b)(3): Modified adjusted gross income effective in 2018	Beneficiary percentage (percent)	Federal premium subsidy (percent)
Greater than $85,000	80	20

Table 3 to paragraph (b)(3): Modified adjusted gross income effective beginning in 2019	Beneficiary percentage (percent)	Federal premium subsidy (percent)
Greater than $85,000 but less than $415,000	80	20
Greater than or equal to $415,000	85	15

* * * * *

Subpart C—Income-Related Monthly Adjustments to Medicare Prescription Drug Coverage Premiums

■ 5. The authority citation for subpart C of part 418 continues to read as follows:

Authority: Secs. 702(a)(5), 1860D–13(a) and (c) of the Social Security Act (42 U.S.C. 902(a)(5), 1395w–113(a) and (c)).

■ 6. Amend § 418.2115 by:
■ a. Revising the first sentence in paragraph (a); and
■ b. Revising paragraphs (b), (c), (d), and (e).

The revisions read as follows:

§ 418.2115 What are the modified adjusted gross income ranges?

(a) We list the modified adjusted gross income ranges for the calendar years 2011 through and including 2017, 2018, and beginning in 2019 for each Federal tax filing category in paragraphs (b), (c) and (d) of this section. * * *

(b) The modified adjusted gross income ranges for individuals with a Federal tax filing status of single, head of household, qualifying widow(er) with dependent child, and married filing separately when the individual has lived apart from his/her spouse for the entire tax year for the year we use to make our income-related monthly adjustment amount determination are as follows:

(1) For calendar years 2011 through and including 2017—

(i) Greater than $85,000 but less than or equal to $107,000;

(ii) Greater than $107,000 but less than or equal to $160,000;

(iii) Greater than $160,000 but less than or equal to $214,000; and

(iv) Greater than $214,000.

(2) For calendar year 2018—

(i) Greater than $85,000 but less than $107,000;

(ii) Greater than $107,000 but less than $133,500;

(iii) Greater than $133,500 but less than $160,000; and

(iv) Greater than $160,000.

(3) For calendar years beginning in 2019—

(i) Greater than $85,000 but less than or equal to $107,000;

(ii) Greater than $107,000 but less than or equal to $133,500;

(iii) Greater than $133,500 but less than or equal to $160,000;

(iv) Greater than $160,000 but less than $500,000; and

(v) Greater than or equal to $500,000.

(c) The modified adjusted gross income ranges for individuals who are married and filed a joint tax return for the tax year we use to make the income-related monthly adjustment amount determination are as follows.

(1) For calendar years 2011 through 2017—

(i) Greater than $170,000 but less than or equal to $214,000;

(ii) Greater than $214,000 but less than or equal to $320,000;

(iii) Greater than $320,000 but less than or equal to $428,000; and

(iv) Greater than $428,000.

(2) For calendar year 2018—

(i) Greater than $170,000 but less than or equal to $214,000;

(ii) Greater than $214,000 but less than or equal to $267,000;

(iii) Greater than $267,000 but less than or equal to $320,000; and

(iv) Greater than $320,000.

(3) For calendar years beginning in 2019—

(i) Greater than $170,000 but less than or equal to $214,000;

(ii) Greater than $214,000 but less than or equal to $267,000;

(iii) Greater than $267,000 but less than or equal to $320,000;

(iv) Greater than $320,000 but less than $750,000; and

(v) Greater than or equal to $750,000.

(d) The modified adjusted gross income ranges for married individuals who file a separate return and have lived with their spouse at any time during the tax year we use to make the income-related monthly adjustment amount determination are as follows:

(1) For calendar years 2011 through and including 2017—

(i) Greater than $85,000 but less than or equal to $129,000; and

(ii) Greater than $129,000.

(2) For calendar year 2018—Greater than $85,000.

(3) For calendar years beginning in 2019—

(i) Greater than $85,000 but less than $415,000; and

(ii) Greater than or equal to $415,000.

(e)(1) Subject to paragraph (e)(2) of this section, in 2019, CMS will set the modified adjusted gross income ranges

for 2020 and publish them in the **Federal Register**. In each year thereafter, CMS will set the modified adjusted gross income ranges by increasing the preceding year's ranges by any percentage increase in the Consumer Price Index rounded to the nearest $1,000 and will publish the amounts for the following year in September of each year.

(2) The amounts listed in paragraphs (b), (c), and (d) of $415,000, $500,000, and $750,000 will not be adjusted under paragraph (e)(1) of this section until 2028. Beginning in 2027, and in each year thereafter, CMS will adjust these range amounts for the following year under paragraph (e)(1) of this section and publish the updated ranges in the **Federal Register**.

■ 7. Amend § 418.2120 by revising paragraph (b) to read as follows:

§ 418.2120 How do we determine your income-related monthly adjustment amount?

* * * * *

(b) *Tables of applicable percentage.* The tables in paragraphs (b)(1) through (b)(3) of this section contain the modified adjusted gross income ranges for calendar years 2011 through and including 2017, 2018, and 2019, and the corresponding percentage of the cost of basic Medicare prescription drug coverage that individuals with modified adjusted gross incomes that fall within each of the ranges will pay. The monthly dollar amounts will be determined by CMS using the formula in section 1860D–13(a)(7)(B) of the Act. Based on your tax filing status for the tax year we use to make a determination about your income-related monthly adjustment amount, we will determine which table is applicable to you. We will use your modified adjusted gross income to determine which income-related monthly adjustment amount to apply to you. The dollar amounts used for each of the ranges of income-related monthly adjustment will be set annually after 2019 as described in paragraph (c) of this section. The modified adjusted gross income ranges will be adjusted annually after 2019 as described in § 418.2115(e).

(1) *General tables of applicable percentages.* If your filing status for your Federal income taxes for the tax year we use is single; head of household; qualifying widow(er) with dependent child; or married filing separately and you lived apart from your spouse for the entire tax year, we will use the general tables of applicable percentages. When your modified adjusted gross income for the year we use is in the range listed in the left column in the following tables, you will pay an amount based on the percentage listed in the right column, which represents a percentage of the cost of basic Medicare prescription drug coverage.

Table 1 to paragraph (b)(1): Modified adjusted gross income effective in 2011–2017	Beneficiary percentage (percent)
Greater than $85,000 but less than or equal to $107,000	35
Greater than $107,000 but less than or equal to $160,000	50
Greater than $160,000 but less than or equal to $214,000	65
Greater than $214,000	80

Table 2 to paragraph (b)(1): Modified adjusted gross income effective in 2018	Beneficiary percentage (percent)
Greater than $85,000 but less than or equal to $107,000	35
Greater than $107,000 but less than or equal to $133,500	50
Greater than $133,500 but less than or equal to $160,000	65
Greater than $160,000	80

Table 3 to paragraph (b)(1): Modified adjusted gross income effective beginning in 2019	Beneficiary percentage (percent)
Greater than $85,000 but less than or equal to $107,000	35
Greater than $107,000 but less than or equal to $133,500	50
Greater than $133,500 but less than or equal to $160,000	65
Greater than $160,000 but less than $500,000	80
Greater than or equal to $500,000	85

(2) *Tables of applicable percentages for joint returns.* If your Federal tax filing status is married filing jointly for the tax year we use and your modified adjusted gross income for that tax year is in the range listed in the left column in the following tables, you will pay an amount based on the percentage listed in the right column, which represents a percentage of the cost of basic Medicare prescription drug coverage.

Table 1 to paragraph (b)(2): Modified adjusted gross income effective in 2011–2017	Beneficiary percentage (percent)
Greater than $170,000 but less than or equal to $214,000	35
Greater than $214,000 but less than or equal to $320,000	50
Greater than $320,000 but less than or equal to $428,000	65
Greater than $428,000	80

Table 2 to paragraph (b)(2): Modified adjusted gross income effective in 2018	Beneficiary percentage (percent)
Greater than $170,000 but less than or equal to $214,000	35
Greater than $214,000 but less than or equal to $267,000	50
Greater than $267,000 but less than or equal to $320,000	65
Greater than $320,000	80

Table 3 to paragraph (b)(2): Modified adjusted gross income effective beginning in 2019	Beneficiary percentage (percent)
Greater than $170,000 but less than or equal to $214,000	35
Greater than $214,000 but less than or equal to $267,000	50
Greater than $267,000 but less than or equal to $320,000	65
Greater than $320,000 but less than $750,000	80
Greater than or equal to $750,000	85

(3) *Tables of applicable percentages for married individuals filing separate returns.* If, for the tax year we use, your Federal tax filing status is married filing separately, you lived with your spouse at some time during that tax year, and your modified adjusted gross income is in the range listed in the left column in the following tables, you will pay an amount based on the percentage listed in the right column, which represents a percentage of the cost of basic Medicare prescription drug coverage.

Table 1 to paragraph (b)(3): Modified adjusted gross income effective in 2011–2017	Beneficiary percentage (percent)
Greater than $85,000 but less than or equal to $129,000	65
Greater than $129,000	80

Table 2 to paragraph (b)(3): Modified adjusted gross income effective in 2018	Beneficiary percentage (percent)
Greater than $85,000	80

Table 3 to paragraph (b)(3): Modified adjusted gross income effective beginning in 2019	Beneficiary percentage (percent)
Greater than $85,000 but less than $415,000	80
Greater than or equal to $415,000	85

* * * * *

[FR Doc. 2018–24336 Filed 11–6–18; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9842]

RIN 1545–BO63

Tax Return Preparer Due Diligence Penalty Under Section 6695(g)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulation and removal of temporary regulation.

SUMMARY: This document contains final regulations relating to the tax return preparer penalty. The final regulations are necessary to implement recent law changes that expand the scope of the tax return preparer due diligence penalty so that it applies to the child tax credit (CTC)/additional child tax credit (ACTC), and the American opportunity tax credit (AOTC) as well as to eligibility to file a return or claim for refund as head of household. The regulations affect tax return preparers.

DATES:

Effective date: These regulations are effective November 7, 2018.

Applicability date: For the applicability date, see § 1.6695–2(e).

FOR FURTHER INFORMATION CONTACT: Marshall French, 202–317–6845 (not a toll-free number).

Paperwork Reduction Act

The collection of information in current § 1.6695–2 was previously reviewed and approved under control number 1545–1570. Control number 1545–1570 was discontinued in 2014, as the burden for the collection of information contained in § 1.6695–2 is reflected in the burden for Form 8867, ''Paid Preparer's Due Diligence Checklist,'' under control number 1545–1629.

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the Income Tax Regulations (26 CFR part 1) under section 6695(g) of the Internal Revenue Code (Code) regarding the tax return preparer due diligence requirements.

Prior to 2016, section 6695(g) imposed a penalty on tax return preparers who failed to comply with due diligence requirements set forth in regulations prescribed by the Secretary with respect

to determining eligibility for, or the amount of, the earned income credit (EIC). For tax years beginning after December 31, 2015, the scope of section 6695(g) was expanded to apply the penalty to tax return preparers who fail to comply with due diligence requirements with respect to determining eligibility for, or the amount of, the child tax credit (CTC)/ additional child tax credit (ACTC) and the American opportunity tax credit (AOTC). See section 207 of the Protecting Americans from Tax Hikes Act of 2015, Div. Q of Public Law 114–113 (129 Stat. 2242, 3082) (PATH Act). On December 5, 2016, final and temporary regulations (TD 9799, 81 FR 87444) with cross-referencing proposed regulations (REG–102952–16, 81 FR 87502) (2016 proposed regulations) were published in the **Federal Register** to reflect these changes. No public hearing was held or requested. One comment responding to the notice of proposed rulemaking was received.

Effective for tax years beginning after December 31, 2017, section 6695(g) was amended to expand the scope of the penalty to tax return preparers who fail to comply with due diligence requirements set by the Secretary with respect to determining eligibility to file as head of household (as defined in section 2(b)). See section 11001(b) 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, 2058 (2017)). A notice of proposed rulemaking (REG–103474–18, 83 FR 33875) (2018 proposed regulations) was published in the **Federal Register** on July 18, 2018 to withdraw paragraphs (a), (b)(3), and (e) of § 1.6695–2 of the 2016 proposed regulations and to propose in their place new paragraphs (a), (b)(3), and (e) of § 1.6695–2. The amended paragraphs updated the 2016 proposed regulations to reflect the most recent change to section 6695(g). No public hearing was held or requested. Comments responding to the notice of proposed rulemaking were received. After consideration of all the comments, paragraphs (b)(1)(i) introductory text, (b)(1)(ii), (b)(2), (b)(4)(i)(B), (b)(4)(i)(C), and (c)(3) of the 2016 proposed regulations and the entirety of the 2018 proposed regulations are adopted by this Treasury decision without substantive changes. Minor grammatical revisions were made to the examples provided in paragraph (b)(3)(ii) of § 1.6695–2 of the 2018 proposed regulations and example 5 was revised for clarity. A new example 6 was added to paragraph (b)(3)(ii) and the previous examples 6 and 7 from the 2018 proposed regulations were renumbered as 7 and 8 respectively. A detailed explanation of these regulations can be found in the preambles to the 2016 temporary regulation and the 2018 proposed rules. 81 FR 87446; 83 FR 33876.

Summary of Comments

Paragraph (a) of § 1.6695–2 of the 2016 proposed regulations provides guidance on the operation of the penalty for failure to meet due diligence requirements with respect to returns claiming the EIC, the CTC/ACTC, the AOTC, or any combination of those credits. A commenter to the 2016 proposed regulations recommended that the rule include language stating that the phrase ''tax return preparer'' is defined to include business entities and persons without an identifying number. The commenter suggested that including this definition in the rule would decrease the likelihood that tax return preparers without an identifying number would be able to escape enforcement of section 6695(g) of the Code. Paragraph (a) defines ''tax return preparer'' by cross-reference to section 7701(a)(36) of the Code. The definition of tax return preparer provided in section 7701(a)(36) of the Code states: ''The term 'tax return preparer' means any person who prepares for compensation, or who employs one or more persons to prepare for compensation, any return of tax imposed by this title or any claim for refund of tax imposed by this title. For purposes of the preceding sentence, the preparation of a substantial portion of a return or claim for refund shall be treated as if it were the preparation of such return or claim for refund.'' In addition, the definition of ''person'' provided in section 7701(a)(1) of the Code states: ''The term 'person' shall be construed to mean and include an individual, a trust, estate, partnership, association, company or corporation.'' Thus the definition of tax return preparer already includes business entities in addition to individuals. Further, while individual paid tax return preparers who prepare, or assist in preparation of, all or substantially all of a tax return or claim for refund are required by Treas. Reg. § 1.6109–2 to obtain an identifying number, the definition of ''tax return preparer'' in section 7701(a)(36) does not include a requirement that the person have obtained an identifying number. Therefore, penalties under section 6695(g) of the Code apply to any person who falls within the definition provided in section 7701(a)(36) of the Code, without regard for whether they have an identifying number. Because the definition already includes paid tax return preparers who do not have an identifying number, it is not necessary to adopt this comment.

One commenter suggested that clarity would be increased if the knowledge requirement of paragraph (b)(3)(i) of the 2018 proposed regulations were rephrased in positive terms, rather than in negative terms. Paragraph (b)(3)(i) as proposed requires tax return preparers to not know, or have reason to know, that the information they use to prepare the tax returns or claims for refund is incorrect. Paragraph (b)(3)(i) also states that tax return preparers cannot ignore the implications of information furnished to or known by them and must make further inquiries if it is reasonable to do so. The IRS and the Treasury Department considered this issue and decided not to modify the language in paragraph (b)(3)(i). This language mirrors the pre-existing language in § 10.34 of Circular 230. Departing from the language in Circular 230 may cause confusion among tax return preparers and decrease overall clarity.

One commenter requested that the final regulations clarify the circumstances under which a tax return preparer can meet the knowledge requirement of paragraph (b)(3) of the 2018 proposed regulations by relying upon pre-existing knowledge. The commenter noted that Examples 2 and 4 of paragraph (b)(3)(ii) illustrate that a return preparer with pre-existing knowledge of the facts surrounding a taxpayer's return or claim for refund can meet the knowledge requirement when the pre-existing knowledge was acquired in the context of the tax return preparer's tax return preparation practice. The commenter requested guidance as to whether tax return preparers' use of pre-existing knowledge is limited to these circumstances. A new Example 6 has been added to paragraph (b)(3)(ii) and Examples 6 and 7 from the 2018 proposed regulations have been renumbered as Examples 7 and 8, respectively. The new Example 6 clarifies that a tax return preparer who possesses pre-existing knowledge that was acquired outside the context of the preparer's tax return preparation practice cannot meet the knowledge requirement of paragraph (b)(3)(ii) by relying on that pre-existing knowledge. The tax return preparer must make reasonable inquiries to determine the applicable facts, and the inquiries and responses to those inquiries must be

contemporaneously documented in the tax return preparer's files.

A commenter recommended that paragraph (b)(3)(i) of the 2018 proposed regulations be modified to remove the requirement that tax return preparers contemporaneously document any inquiries made and responses to those inquiries. The commenter stated that some tax return preparers may have made contemporaneous inquiries but failed to document them, and suggested that other forms of evidence, such as testimony, should be allowed to prove that the tax return preparer asked the questions. The commenter also suggested that tax return preparers should be allowed to illustrate facts through non-contemporaneous documentation as a defense to the penalty. The IRS and the Treasury Department considered this issue and decided to not make the suggested modifications to paragraph (b)(3)(i) because contemporaneous documentation is important for improving compliance and reducing the error rate in tax returns and claims for refund prepared by tax return preparers.

One commenter stated that example 5 in paragraph (b)(3)(ii) of the 2018 proposed regulations requires a tax return preparer to engage in inquiries beyond those required by the knowledge requirement in paragraph (b)(3)(i). In example 5, a tax return preparer is informed that the taxpayer has never been married and that the taxpayer's niece and nephew lived with the taxpayer for part of the year. The tax return preparer believes that the taxpayer may be eligible to file as head of household and that the taxpayer may be able to claim the children as qualifying children for purposes of the EIC and CTC. Example 5 in the 2018 proposed regulations states that the tax return preparer must ask additional questions to meet the knowledge requirement in paragraph (b)(3)(i). The commenter stated that the tax return preparer should not be required to engage in additional inquiries because none of the information provided to the tax return preparer appears to be incorrect or inconsistent. This comment overlooks the additional requirement of (b)(3)(i) that tax return preparers engage in additional inquiries where the information furnished to them is incomplete. The information in Example 5 is incomplete because the preparer does not know enough about the children's residency or the source of their support. Example 5 has been revised to clarify that the reason the tax return preparer must engage in additional inquiries is because the information furnished to the tax return preparer is incomplete.

A commenter requested additional guidance concerning the extent to which tax return preparers are required by paragraph (b)(3)(i) of the 2018 proposed regulations to engage in additional inquiries. The commenter notes that a reasonable person would not take unlimited and unending steps as part of the due diligence process but states that the regulations do not sufficiently identify a stopping point after which a tax return preparer is no longer required to make additional inquiries. Guidance as to the stopping point referenced by the commenter is provided in the regulation at paragraph (b)(3)(i), which states that additional inquiries are required if a reasonable and well-informed tax return preparer knowledgeable in the law would conclude that the information furnished to the tax return preparer appears to be incorrect, inconsistent, or incomplete.

A commenter suggested that the requirement in paragraph (b)(1) of the 2016 proposed regulations that tax return preparers complete and attach Form 8867 be eliminated. The IRS and the Treasury Department decline to adopt this suggestion. The completion and filing of Form 8867 by tax return preparers is an essential part of the section 6695(g) due diligence enforcement process. The commenter also stated that some tax return preparers are uncertain as to whether completing Form 8867 is sufficient to avoid due diligence penalties under section 6695(g). Filing a completed Form 8867 is one of the requirements established by the final regulations, but there are additional requirements. Paragraph (b)(2) requires tax return preparers who prepare returns or claims for refund claiming one or more of EIC, CTC/ACTC, and AOTC to either complete the applicable worksheet(s) prescribed by the Secretary or record in one or more documents the tax return preparer's method and information used to make the computations for the credits. Paragraph (b)(3) requires tax return preparers to meet knowledge requirements concerning the basis for the benefits claimed on returns or claims for refund and also to contemporaneously document inquiries and responses related to meeting these knowledge requirements. Paragraph (b)(4) sets retention requirements for documents used by the tax return preparer in preparing the return or claim for refund. A tax return preparer who completes Form 8867 but fails to comply with one or more of these additional requirements has not satisfied the due diligence requirements of 6695(g).

Special Analyses

This regulation is not subject to review under section 6(b) of Executive Order 12866 pursuant to the Memorandum of Agreement (April 11, 2018) between the Department of the Treasury 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 these regulations will not have a significant economic impact on a substantial number of small entities. Although the regulations will have an economic impact on a substantial number of small entities, this impact will not be significant.

The current final and temporary regulations under section 6695(g) already require tax return preparers to complete Form 8867 when a return or claim for refund includes a claim of the EIC, the CTC/ACTC, the AOTC, or any combination of those credits. Tax return preparers also must currently maintain records of the checklists and computations, as well as a record of how and when the information used to compute the credits was obtained by the tax return preparer. The information needed to document a taxpayer's eligibility to file as head of household is information the preparer must gather to file the return. Even if certain preparers are required to maintain the checklists and complete Form 8867 for the first time, the IRS estimates that the total time required should be minimal for these tax return preparers. Further, the IRS does not expect that the requirements in the final rule would necessitate the purchase of additional software or equipment to meet the additional information retention requirements.

Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small businesses. No comments were received from the Small Business Administration.

Drafting Information

The principal author of these regulations is Marshall French of the Office of the Associate Chief Counsel (Procedure and Administration).

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is 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 1.6695–2 is amended by revising the section heading and paragraphs (a), (b)(1)(i) introductory text, (b)(1)(ii), (b)(2) and (3), (b)(4)(i)(B) and (C), (c)(3), and (e) to read as follows:

§ 1.6695–2 Tax return preparer due diligence requirements for certain tax returns and claims.

(a) *Penalty for failure to meet due diligence requirements*—(1) *In general.* A person who is a tax return preparer (as defined in section 7701(a)(36)) of a tax return or claim for refund under the Internal Revenue Code who determines the taxpayer's eligibility to file as head of household under section 2(b), or who determines the taxpayer's eligibility for, or the amount of, the child tax credit (CTC)/additional child tax credit (ACTC) under section 24, the American opportunity tax credit (AOTC) under section 25A(i), or the earned income credit (EIC) under section 32, and who fails to satisfy the due diligence requirements of paragraph (b) of this section will be subject to a penalty as prescribed in section 6695(g) (indexed for inflation under section 6695(h)) for each failure. A separate penalty applies to a tax return preparer with respect to the head of household filing status determination and to each applicable credit claimed on a return or claim for refund for which the due diligence requirements of this section are not satisfied and for which the exception to penalty provided by paragraph (d) of this section does not apply.

(2) *Examples.* The provisions of paragraph (a)(1) of this section are illustrated by the following examples:

(i) *Example 1.* Preparer A prepares a federal income tax return for a taxpayer claiming the CTC and the AOTC. Preparer A did not meet the due diligence requirements under this section with respect to the CTC or the AOTC claimed on the taxpayer's return. Unless the exception to penalty provided by paragraph (d) of this section applies, Preparer A is subject to two penalties under section 6695(g): One for failure to meet the due diligence requirements for the CTC and a second penalty for failure to meet the due diligence requirements for the AOTC.

(ii) *Example 2.* Preparer B prepares a federal income tax return for a taxpayer claiming the CTC and the AOTC. Preparer B did not meet the due diligence requirements under this section with respect to the CTC claimed on the taxpayer's return, but Preparer B did meet the due diligence requirements under this section with respect to the AOTC claimed on the taxpayer's return. Unless the exception to penalty provided by paragraph (d) of this section applies, Preparer B is subject to one penalty under section 6695(g) for the failure to meet the due diligence requirements for the CTC. Preparer B is not subject to a penalty under section 6695(g) for failure to meet the due diligence requirements for the AOTC.

(iii) *Example 3.* Preparer C prepares a federal income tax return for a taxpayer using the head of household filing status and claiming the CTC and the AOTC. Preparer C did not meet the due diligence requirements under this section with respect to the head of household filing status and the CTC claimed on the taxpayer's return. Preparer C did meet the due diligence requirements under this section with respect to the AOTC claimed on the taxpayer's return. Unless the exception to penalty provided by paragraph (d) of this section applies, Preparer C is subject to two penalties under section 6695(g) for the failure to meet the due diligence requirements: One for the head of household filing status and one for the CTC. Preparer C is not subject to a penalty under section 6695(g) for failure to meet the due diligence requirements for the AOTC.

(b) * * *

(1) * * *

(i) The tax return preparer must complete Form 8867, ''Paid Preparer's Due Diligence Checklist,'' or complete such other form and provide such other information as may be prescribed by the Internal Revenue Service (IRS), and—

* * * * *

(ii) The tax return preparer's completion of Form 8867 must be based on information provided by the taxpayer to the tax return preparer or otherwise reasonably obtained or known by the tax return preparer.

(2) *Computation of credit or credits.* (i) When computing the amount of a credit or credits described in paragraph (a) of this section to be claimed on a return or claim for refund, the tax return preparer must either—

(A) Complete the worksheet in the Form 1040, 1040A, 1040EZ, and/or Form 8863 instructions or such other form including such other information as may be prescribed by the IRS applicable to each credit described in paragraph (a) of this section claimed on the return or claim for refund; or

(B) Otherwise record in one or more documents in the tax return preparer's paper or electronic files the tax return preparer's computation of the credit or credits claimed on the return or claim for refund, including the method and information used to make the computations.

(ii) The tax return preparer's completion of an applicable worksheet described in paragraph (b)(2)(i)(A) of this section (or other record of the tax return preparer's computation of the credit or credits permitted under paragraph (b)(2)(i)(B) of this section) must be based on information provided by the taxpayer to the tax return preparer or otherwise reasonably obtained or known by the tax return preparer.

(3) *Knowledge*—(i) *In general.* The tax return preparer must not know, or have reason to know, that any information used by the tax return preparer in determining the taxpayer's eligibility to file as head of household or in determining the taxpayer's eligibility for, or the amount of, any credit described in paragraph (a) of this section and claimed on the return or claim for refund is incorrect. The tax return preparer may not ignore the implications of information furnished to, or known by, the tax return preparer, and must make reasonable inquiries if a reasonable and well-informed tax return preparer knowledgeable in the law would conclude that the information furnished to the tax return preparer appears to be incorrect, inconsistent, or incomplete. The tax return preparer must also contemporaneously document in the preparer's paper or electronic files any inquiries made and the responses to those inquiries.

(ii) *Examples.* The provisions of paragraph (b)(3)(i) of this section are illustrated by the following examples:

(A) *Example 1.* In 2018, Q, a 22-year-old taxpayer, engages Preparer C to prepare Q's 2017 federal income tax return. Q completes Preparer C's standard intake questionnaire and states that Q has never been married and has two sons, ages 10 and 11. Based on the intake sheet and other information that Q provides, including information that shows that the boys lived with Q throughout 2017, Preparer C believes that Q may be eligible to claim each boy as a qualifying child for purposes of the EIC and the CTC. However, Q provides no information to Preparer C, and Preparer C does not have any information from other sources, to verify the relationship between Q and the boys. To meet the knowledge requirement in paragraph (b)(3) of this section, Preparer C must make reasonable inquiries to determine whether each boy is a qualifying child of Q for purposes of the EIC and the CTC, including reasonable inquiries to verify Q's relationship to the boys, and Preparer C must contemporaneously document these inquiries and the responses.

(B) *Example 2.* Assume the same facts as in *Example 1* of paragraph (b)(3)(ii)(A) of this section. In addition, as part of preparing Q's 2017 federal income tax return, Preparer C made sufficient reasonable inquiries to verify that the boys were Q's legally adopted children. In 2019, Q engages Preparer C to prepare Q's 2018 federal income tax return. When preparing Q's 2018 federal income tax

return, Preparer C is not required to make additional inquiries to determine each boy's relationship to Q for purposes of the knowledge requirement in paragraph (b)(3) of this section.

(C) *Example 3.* In 2018, R, an 18-year-old taxpayer, engages Preparer D to prepare R's 2017 federal income tax return. R completes Preparer D's standard intake questionnaire and states that R has never been married, has one child, an infant, and that R and R's infant lived with R's parents during part of the 2017 tax year. R also provides Preparer D with a Form W–2 showing that R earned $10,000 during 2017. R provides no other documents or information showing that R earned any other income during the tax year. Based on the intake sheet and other information that R provides, Preparer D believes that R may be eligible to claim the infant as a qualifying child for the EIC and the CTC. To meet the knowledge requirement in paragraph (b)(3) of this section, Preparer D must make reasonable inquiries to determine whether R is eligible to claim these credits, including reasonable inquiries to verify that R is not a qualifying child of R's parents (which would make R ineligible to claim the EIC) or a dependent of R's parents (which would make R ineligible to claim the CTC), and Preparer D must contemporaneously document these inquiries and the responses.

(D) *Example 4.* Assume the same facts as the facts in *Example 3* of paragraph (b)(3)(ii)(C) of this section. In addition, Preparer D previously prepared the 2017 joint federal income tax return for R's parents. Based on information provided by R's parents, Preparer D has determined that R is not eligible to be claimed as a dependent or as a qualifying child for purposes of the EIC or the CTC on R's parents' return. Therefore, for purposes of the knowledge requirement in paragraph (b)(3) of this section, Preparer D is not required to make additional inquiries to determine that R is not R's parents' qualifying child or dependent.

(D) *Example 5.* In 2019, S engages Preparer E to prepare S's 2018 federal income tax return. During Preparer E's standard intake interview, S states that S has never been married and that S's niece and nephew lived with S for part of the 2018 tax year. Preparer E believes S may be eligible to file as head of household and claim each of these children as a qualifying child for purposes of the EIC and the CTC, but the information furnished to Preparer E is incomplete. To meet the knowledge requirement in paragraph (b)(3) of this section, Preparer E must make reasonable inquiries to determine whether S is eligible to file as head of household and whether each child is a qualifying child for purposes of the EIC and the CTC, including reasonable inquiries about the children's residency, S's relationship to the children, the children's income, the sources of support for the children, and S's contribution to the payment of costs related to operating the household, and Preparer E must contemporaneously document these inquiries and the responses.

(F) *Example 6.* Assume the same facts as the facts in *Example 5* of paragraph (b)(3)(ii)(E) of this section. In addition, Preparer E knows from prior social interactions with S that the children resided with S for more than one-half of the 2018 tax year and that the children did not provide over one-half of their own support for the 2018 tax year. To meet the knowledge requirement in paragraph (b)(3) of this section, Preparer E must make the same reasonable inquiries to determine whether S is eligible to file as head of household and whether each child is a qualifying child for purposes of the EIC and the CTC as discussed in *Example 5* of this section, and Preparer E must contemporaneously document these inquiries and the responses.

(G) *Example 7.* W engages Preparer F to prepare W's federal income tax return. During Preparer F's standard intake interview, W states that W is 50 years old, has never been married, and has no children. W further states to Preparer F that during the tax year W was self-employed, earned $10,000 from W's business, and had no business expenses or other income. Preparer F believes W may be eligible for the EIC. To meet the knowledge requirement in paragraph (b)(3) of this section, Preparer F must make reasonable inquiries to determine whether W is eligible for the EIC, including reasonable inquiries to determine whether W's business income and expenses are correct, and Preparer F must contemporaneously document these inquiries and the responses.

(H) *Example 8.* Y, who is 32 years old, engages Preparer G to prepare Y's federal income tax return. Y completes Preparer G's standard intake questionnaire and states that Y has never been married. As part of Preparer G's client intake process, Y provides Preparer G with a copy of the Form 1098–T Y received showing that University M billed $4,000 of qualified tuition and related expenses for Y's enrollment or attendance at the university and that Y was at least a half-time undergraduate student. Preparer G believes that Y may be eligible for the AOTC. To meet the knowledge requirement in paragraph (b)(3) of this section, Preparer G must make reasonable inquiries to determine whether Y is eligible for the AOTC, as Form 1098–T does not contain all the information needed to determine eligibility for the AOTC or to calculate the amount of the credit if Y is eligible, and contemporaneously document these inquiries and the responses.

(4) * * *

(i) * * *

(B) A copy of each completed worksheet required under paragraph (b)(2)(i)(A) of this section (or other record of the tax return preparer's computation permitted under paragraph (b)(2)(i)(B) of this section); and

(C) A record of how and when the information used to complete Form 8867 and the applicable worksheets required under paragraph (b)(2)(i)(A) of this section (or other record of the tax return preparer's computation permitted under paragraph (b)(2)(i)(B) of this section) was obtained by the tax return preparer, including the identity of any person furnishing the information, as well as a copy of any document that was provided by the taxpayer and on which the tax return preparer relied to complete Form 8867 and/or an applicable worksheet required under paragraph (b)(2)(i)(A) of this section (or other record of the tax return preparer's computation permitted under paragraph (b)(2)(i)(B) of this section).

* * * * *

(c) * * *

(3) The firm disregarded its reasonable and appropriate compliance procedures through willfulness, recklessness, or gross indifference (including ignoring facts that would lead a person of reasonable prudence and competence to investigate) in the preparation of the tax return or claim for refund with respect to which the penalty is imposed.

* * * * *

(e) *Applicability date.* The rules of this section apply to tax returns and claims for refund for tax years beginning after December 31, 2015, that are prepared on or after December 5, 2016. However, the rules relating to the determination of a taxpayer's eligibility to file as head of household under section 2(b) apply to tax returns and claims for refund for tax years beginning after December 31, 2017, that are prepared on or after November 7, 2018.

§ 1.6695–2T [Removed]

■ **Par. 3.** Section 1.6695–2T is removed.

Kirsten Wielobob,

Deputy Commissioner for Services and Enforcement.

Approved: October 1, 2018.

David J. Kautter,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2018–24411 Filed 11–5–18; 4:15 pm]

BILLING CODE 4830–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

RIN 0648–XG515

Fraser River Sockeye Salmon Fisheries; Inseason Orders

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

ACTION: Temporary orders; inseason orders.

SUMMARY: NMFS publishes Fraser River salmon inseason orders to regulate

treaty and non-treaty (all citizen) commercial salmon fisheries in U.S. waters. The orders were issued by the Fraser River Panel (Panel) of the Pacific Salmon Commission (Commission) and subsequently approved and issued by NMFS during the 2018 salmon fisheries within the U.S. Fraser River Panel Area. These orders established fishing dates, times, and areas for the gear types of U.S. treaty Indian and all citizen commercial fisheries during the period the Panel exercised jurisdiction over these fisheries.

DATES: The effective dates for the inseason orders are set out in this document under the heading Inseason Orders.

FOR FURTHER INFORMATION CONTACT: Peggy Mundy at 206–526–4323.

SUPPLEMENTARY INFORMATION: The Treaty between the Government of the United States of America and the Government of Canada concerning Pacific Salmon was signed at Ottawa on January 28, 1985, and subsequently was given effect in the United States by the Pacific Salmon Treaty Act (Act) at 16 U.S.C. 3631–3644.

Under authority of the Act, Federal regulations at 50 CFR part 300, subpart F, provide a framework for the implementation of certain regulations of the Commission and inseason orders of the Commission's Fraser River Panel for U.S. sockeye salmon fisheries in the Fraser River Panel Area.

The regulations close the U.S. portion of the Fraser River Panel Area to U.S. sockeye salmon tribal and non-tribal commercial fishing unless opened by Panel orders that are given effect by inseason regulations published by NMFS. During the fishing season, NMFS may issue regulations that establish fishing times and areas consistent with the Commission agreements and inseason orders of the Panel. Such orders must be consistent with domestic legal obligations and are issued by the Regional Administrator, West Coast Region, NMFS. Official notification of these inseason actions is provided by two telephone hotline numbers described at 50 CFR 300.97(b)(1) and in 84 FR 19005 (May 1, 2018). The inseason orders are published in the **Federal Register** as soon as practicable after they are issued. Due to the frequency with which inseason orders are issued, publication of individual orders is impractical.

Inseason Orders

The following inseason orders were adopted by the Panel and issued for U.S. fisheries by NMFS during the 2018 fishing season. Each of the following inseason actions was effective upon announcement on telephone hotline numbers as specified at 50 CFR 300.97(b)(1) and in 84 FR 19005 (May 1, 2018); those dates and times are listed herein. The times listed are local times, and the areas designated are Puget Sound Management and Catch Reporting Areas as defined in the Washington State Administrative Code at Chapter 220–22.

Fraser River Panel Order Number 2018–01: Issued 11:40 a.m., July 24, 2018

Treaty Indian Fishery

Areas 4B, 5, and 6C: Open to drift gillnets from 12 p.m. (noon), Friday, July 27, 2018, to 12 p.m. (noon), Tuesday, July 31, 2018.

Fraser River Panel Order Number 2018–02: Issued 11:40 a.m., July 27, 2018

Treaty Indian Fishery

Areas 4B, 5, and 6C: Extend for drift gillnets from 12 p.m. (noon), Tuesday, July 31, 2018, to 12 p.m. (noon), Wednesday, August 1, 2018.

Fraser River Panel Order Number 2018–03: Issued 11:40 a.m., July 31, 2018

Treaty Indian Fishery

Areas 4B, 5, and 6C: Extend for drift gillnets from 12 p.m. (noon), Wednesday, August 1, 2018, to 12 p.m. (noon), Saturday, August 4, 2018.

Areas 6, 7, and 7A: Open to net fishing from 5 a.m., Thursday, August 2, 2018, to 9 a.m., Friday, August 3, 2018, and from 5 a.m., Saturday, August 4, 2018, to 9 a.m., Sunday, August 5, 2018.

All Citizen Fisheries

Areas 7 and 7A: Open to purse seines from 5 a.m. to 9 p.m., Friday, August 3, 2018.

Areas 7 and 7A: Open to gillnets from 8 a.m. to 11:59 p.m. (midnight), Friday, August 3, 2018.

Areas 7 and 7A: Open to reefnets from 5 a.m. to 9 p.m., Monday, August 6, 2018.

Fraser River Panel Order Number 2018–04: Issued 1:25 p.m., August 3, 2018

Treaty Indian Fisheries

Areas 4B, 5, and 6C: Extend for drift gillnets from 12 p.m. (noon), Saturday, August 4, 2018, to 12 p.m. (noon), Wednesday, August 8, 2018.

Areas 6, 7, and 7A: Open to net fishing from 5 a.m., Tuesday, August 7, 2018, to 9 a.m., Thursday, August 9, 2018.

All Citizen Fisheries

Areas 7 and 7A: Open to purse seines from 5 a.m. to 9 p.m., Monday, August 6, 2018.

Areas 7 and 7A: Open to gillnets from 8 a.m. to 11:59 p.m. (midnight), Monday, August 6, 2018.

Areas 7 and 7A: Open to reefnets from 5 a.m. to 9 p.m., Wednesday, August 8, 2018.

Fraser River Panel Order Number 2018–05: Issued 12 p.m., August 7, 2018

Treaty Indian Fisheries

Areas 4B, 5, and 6C: Extend for drift gillnets from 12 p.m. (noon), Wednesday, August 8, 2018, to 12 p.m. (noon), Saturday, August 11, 2018.

Fraser River Panel Order Number 2018–06: Issued 12:05 p.m., August 8, 2018

All Citizen Fisheries

Areas 7 and 7A: Open to purse seines from 5 a.m. to 9 p.m., Thursday, August 9, 2018.

Areas 7 and 7A: Open to gillnets from 8 a.m. to 11:59 p.m. (midnight), Thursday, August 9, 2018.

Areas 7 and 7A: Open to reefnets from 5 a.m. to 9 p.m., Thursday, August 9, 2018.

Fraser River Panel Order Number 2018–07: Issued 1:35 p.m., August 10, 2018

Treaty Indian Fisheries

Areas 4B, 5, and 6C: Extend for drift gillnets from 12 p.m. (noon), Saturday, August 11, 2018, to 12 p.m. (noon), Wednesday, August 15, 2018.

Fraser River Panel Order Number 2018–08: Issued 1:30 p.m., August 14, 2018

Treaty Indian Fisheries

Areas 4B, 5, and 6C: Extend for drift gillnets from 12 p.m. (noon), Wednesday, August 15, 2018, to 12 p.m. (noon), Saturday, August 18, 2018.

Areas 6, 7, and 7A: Open to net fishing from 5 a.m., Wednesday, August 15, 2018, to 9 a.m., Friday, August 17, 2018.

All Citizen Fisheries

Areas 7 and 7A: Open to purse seines from 9 a.m. to 5 p.m., Friday, August 17, 2018.

Areas 7 and 7A: Open to gillnets from 2:30 p.m. to 10:30 p.m., Friday, August 17, 2018.

Areas 7 and 7A: Open to reefnets from 6:30 a.m. to 2:30 p.m., Saturday, August 18, 2018.

Fraser River Panel Order Number 2018–09: Issued 2:05 p.m., August 17, 2018

Treaty Indian Fisheries

Areas 4B, 5, and 6C: Extend for drift gillnets from 12 p.m. (noon), Saturday, August 18, 2018, to 12 p.m. (noon), Wednesday, August 22, 2018.

Fraser River Panel Order Number 2018–10: Issued 1:05 p.m., August 21, 2018

Treaty Indian Fisheries

Areas 4B, 5, and 6C: Extend for drift gillnets from 12 p.m. (noon), Wednesday, August 22, 2018, to 1 p.m., Friday, August 24, 2018.

Areas 6, 7, and 7A: Open to net fishing from 5 a.m. to 1 p.m., Friday, August 24, 2018.

Fraser River Panel Order Number 2018–11: Issued 3:10 p.m., August 23, 2018

Treaty Indian Fisheries

Areas 4B, 5, and 6C: Extend for drift gillnets from 1 p.m. to 11:59 p.m. (midnight), Friday August 24, 2018.

Areas 6, 7, and 7A: Extend for purse seines from 1 p.m. to 9 p.m., Friday, August 24, 2018. Extend for gillnets from 1 p.m. to 11:59 p.m. (midnight), Friday, August 24, 2018.

Fraser River Panel Order Number 2018–12: Issued 12:10 p.m., September 11, 2018

Treaty Indian and All Citizen Fisheries

Areas 4B, 5, 6, 6C, 7, and 7A, excluding the Apex: Relinquish regulatory control effective 11:59 p.m. (midnight), Saturday, September 15, 2018. The Apex is those waters north and west of the Area 7A ''East Point Line,'' defined as a line projected from the low water range marker in Boundary Bay on the International Boundary through the east tip of Point Roberts in the state of Washington to the East Point light on Saturna Island in the Province of British Columbia.

Classification

The Assistant Administrator for Fisheries NOAA (AA), finds that good cause exists for the inseason orders to be issued without affording the public prior notice and opportunity for comment under 5 U.S.C. 553(b)(B) as such prior notice and opportunity for comments is impracticable and contrary to the public interest. Prior notice and opportunity for public comment is impracticable because NMFS has insufficient time to allow for prior notice and opportunity for public comment between the time the stock abundance information is available to determine how much fishing can be allowed and the time the fishery must open and close in order to harvest the appropriate amount of fish while they are available.

The AA also finds good cause to waive the 30-day delay in the effective date, required under 5 U.S.C. 553(d)(3), of the inseason orders. A delay in the effective date of the inseason orders would not allow fishers appropriately controlled access to the available fish at that time they are available.

This action is authorized by 50 CFR 300.97, and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 3636(b).

Dated: November 2, 2018.

Karen H. Abrams,

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

[FR Doc. 2018–24371 Filed 11–6–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 150413357–5999–02]

RIN 0648–XG582

Atlantic Highly Migratory Species; Commercial Aggregated Large Coastal Shark and Hammerhead Shark Management Group Retention Limit Adjustment

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

ACTION: Temporary rule; inseason retention limit adjustment.

SUMMARY: NMFS is adjusting the commercial aggregated large coastal shark (LCS) and hammerhead shark management group retention limit for directed shark limited access permit holders in the Atlantic region from 36 LCS other than sandbar sharks per vessel per trip to 45 LCS other than sandbar sharks per vessel per trip. This action is based on consideration of the regulatory determination criteria regarding inseason adjustments. The retention limit will remain at 45 LCS other than sandbar sharks per vessel per trip in the Atlantic region through the rest of the 2018 fishing season or until NMFS announces via a notice in the **Federal Register** another adjustment to the retention limit or a fishery closure. This retention limit adjustment affects anyone with a directed shark limited access permit fishing for LCS in the Atlantic region.

DATES: This retention limit adjustment is effective on November 6, 2018 through December 31, 2018, or until NMFS announces via a notice in the **Federal Register** another adjustment to the retention limit or a fishery closure, if warranted.

FOR FURTHER INFORMATION CONTACT: Lauren Latchford, Chanté Davis, or Karyl Brewster-Geisz 301–427–8503; fax 301–713–1917.

SUPPLEMENTARY INFORMATION: Atlantic shark fisheries are managed under the 2006 Consolidated Highly Migratory Species (HMS) Fishery Management Plan (FMP), its amendments, and implementing regulations (50 CFR part 635) issued under authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*).

Atlantic shark fisheries have separate regional (Gulf of Mexico and Atlantic) quotas for all management groups except those for blue shark, porbeagle shark, pelagic sharks (other than porbeagle or blue sharks), and the shark research fishery for LCS and sandbar sharks. The boundary between the Gulf of Mexico region and the Atlantic region is defined at § 635.27(b)(1) as a line beginning on the East Coast of Florida at the mainland at 25°20.4′ N lat., proceeding due east. Any water and land to the north and east of that boundary is considered, for the purposes of setting and monitoring quotas, to be within the Atlantic region. This inseason action only affects the aggregated LCS and hammerhead shark management groups in the Atlantic region.

Under § 635.24(a)(8), NMFS may adjust the commercial retention limits in the shark fisheries during the fishing season. Before making any adjustment, NMFS must consider specified regulatory criteria (see § 635.24(a)(8)(i) through (vi)). After considering these criteria as discussed below, NMFS has concluded that increasing the retention limit of the Atlantic aggregated LCS and hammerhead management groups for directed shark limited access permit holders in the Atlantic region will allow use of available aggregated LCS and hammerhead shark management group quotas and will provide fishermen throughout the region equitable fishing opportunities for the rest of the year. Therefore, NMFS is increasing the commercial Atlantic aggregated LCS and hammerhead shark retention limit in the Atlantic region from 36 to 45 LCS other than sandbar shark per vessel per trip.

NMFS considered the inseason retention limit adjustment criteria listed at § 635.24(a)(8)(i) through (vi), which includes:

- The amount of remaining shark quota in the relevant area, region, or sub-region to date, based on dealer reports.

Based on dealer reports through October 15, 2018, 65.2 metric tons (mt)

dressed weight (dw) (143,809 lb dw), or 39 percent, of the 168.9 mt dw shark quota for aggregated LCS and 8.3 mt dw (18,328 lb dw), or 31 percent, of the 27.1 mt dw shark quota for the hammerhead management groups have been harvested in the Atlantic region. This means that approximately 61 percent of the aggregated LCS quota remains available and approximately 69 percent of the hammerhead shark quota remains available. NMFS took action in May of 2018 to reduce retention rates after considering the relevant inseason adjustment criteria, particularly the need for all regions to have an equitable opportunity to utilize the quota (83 FR 21744; May 10, 2018).

• The catch rates of the relevant shark species/complexes in the region or sub-region, to date, based on dealer reports.

Based on the current commercial retention limit and average catch rate of landings data from dealer reports, the amount of Atlantic aggregated LCS and hammerhead shark quota available is high, while harvest in the Atlantic region on a daily basis is low. Using current catch rates, projections indicate that landings would not reach 80 percent of the quota before the end of the 2018 fishing season (December 31, 2018). A higher retention limit authorized under this action will promote increased fishing opportunities and utilization of available quota in the Atlantic region.

• Estimated date of fishery closure based on when the landings are projected to reach 80 percent of the available overall, regional, and/or sub-regional quota, if the fishery's landings are not projected to reach 100 percent of the applicable quota before the end of the season.

Once the landings reach 80 percent of either the aggregated LCS or hammerhead shark quotas, NMFS would, as required by the regulations at § 635.28(b)(3), close the aggregated LCS and hammerhead shark management groups since they are ''linked quotas.'' However, current catch rates would likely result in the fisheries remaining open for the remainder of the year. The higher retention limit should increase the likelihood of full utilization of the quota in the Atlantic region.

• Effects of the adjustment on accomplishing the objectives of the 2006 Consolidated HMS FMP and its amendments.

Increasing the retention limit on the aggregated LCS and hammerhead management groups in the Atlantic region from 36 to 45 LCS other than sandbar sharks per vessel per trip would continue to allow for fishing opportunities throughout the rest of the year while not compromising the rebuilding objectives established in the 2006 Consolidated HMS FMP.

• Variations in seasonal distribution, abundance, or migratory patterns of the relevant shark species based on scientific and fishery-based knowledge.

The directed shark fisheries in the Atlantic region are composed of a mix of species, with a high abundance of aggregated LCS caught in conjunction with hammerhead sharks. Migratory patterns of many LCS in the Atlantic region indicate that sharks move farther north in the summer and then return south in the fall. Taking these migration patterns into account, NMFS increased the retention limit on July 18, 2018 from 3 to 36 LCS other than sandbar sharks per vessel per trip (83 FR 33870) to provide additional fishing opportunities for fishermen in the Mid-Atlantic and New England areas. However, based on dealer reports through October 15, 2018, harvest in the Atlantic region on a daily basis has been low. Therefore, NMFS is increasing the retention limit from 36 to 45 LCS other than sandbar sharks per vessel per trip in order to fully utilize the quota in the entire Atlantic region.

• Effects of catch rates in one part of a region or sub-region precluding vessels in another part of that region or sub-region from having a reasonable opportunity to harvest a portion of the relevant quota.

NMFS' goal for the 2018 commercial shark fishery is to ensure fishing opportunities throughout the fishing season and the Atlantic region (82 FR 55512; November 22, 2017, 83 FR 21744; May 10, 2018, and 83 FR 33870; July 18, 2018). While dealer reports indicate that, under current catch rates, the aggregated LCS and hammerhead shark management groups in the Atlantic region would remain open for the remainder of the year, the catch rates also indicate that the quotas would likely not be fully harvested under the current retention limit. If the harvest of these species is increased through an increased retention limit, NMFS estimates that the fishery would remain open for the remainder of the year and fishermen throughout the Atlantic region would have a reasonable opportunity to harvest a portion of the quota.

On November 22, 2017 (82 FR 55512), NMFS announced in a final rule that the aggregated LCS and hammerhead shark fisheries management groups for the Atlantic region would open on January 1 with a quota of 168.9 mt dw (372,552 lb dw) and 27.1 mt dw (59,736 lb dw), respectively, and a commercial retention limit of 25 LCS other than sandbar sharks per trip for directed shark limited access permit holders in those fisheries. NMFS published a proposed rule on August 22, 2017 (82 FR 39735) and invited and considered public comment. In the final rule, NMFS explained that if it appeared that the quota is being harvested too quickly, thus precluding fishing opportunities throughout the entire region (*e.g.,* if approximately 20 percent of the quota is caught at the beginning of the year), NMFS would consider reducing the commercial retention limit to 3 or fewer LCS other than sandbar sharks and then later consider increasing the retention limit, perhaps to 36 LCS other than sandbar sharks per vessel per trip around July 15, 2018, consistent with the applicable regulatory requirements. In May 2018, dealer reports indicated that landings had reached 19 percent of the quota, and NMFS therefore reduced the commercial Atlantic aggregated LCS and hammerhead shark retention limit from 25 to 3 LCS other than sandbar sharks per vessel per trip on May 12, 2018 (83 FR 21744; May 10, 2018) after considering the inseason retention limit adjustment criteria listed in § 635.24(a)(8). Based on dealer reports through June 18, 2018, approximately 75 percent and 82 percent of the aggregated LCS and hammerhead shark quotas remain unharvested, respectively. On July 18, 2018, NMFS increased the retention limit from 3 LCS other than sandbar sharks to 36 LCS other than sandbar sharks (83 FR 33870). Based on dealer reports through October 15, 2018, approximately 61 percent and 69 percent of the aggregated LCS and hammerhead shark quotas remain unharvested, respectively. Commercial shark landings in the Atlantic region at this point in the season are uncharacteristically low. Fishermen in the Atlantic region may not have an opportunity to fully utilize the quotas for the remainder of the year if the retention limits are not increased, and available quota will be underutilized.

Accordingly, as of November 6, 2018, NMFS is increasing the retention limit for the commercial aggregated LCS and hammerhead shark management groups in the Atlantic region for directed shark limited access permit holders from 36 LCS other than sandbar sharks per vessel per trip to 45 LCS other than sandbar sharks per vessel per trip. This retention limit adjustment does not apply to directed shark limited access permit holders if the vessel is properly permitted to operate as a charter vessel or headboat for HMS and is engaged in a for-hire trip, in which case the recreational retention limits for sharks

and ''no sale'' provisions apply (§ 635.22(a) and (c)); or if the vessel possesses a valid shark research permit under § 635.32 and a NMFS-approved observer is onboard, in which case the restrictions noted on the shark research permit apply.

All other retention limits and shark fisheries in the Atlantic region remain unchanged. This retention limit will remain at 45 LCS other than sandbar sharks per vessel per trip for the rest of the 2018 fishing season, or until NMFS announces via a notice in the **Federal Register** another adjustment to the retention limit or a fishery closure, if warranted.

Classification

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

Prior notice is impracticable because the regulatory criteria for inseason retention limit adjustments are intended to allow the agency to respond quickly to existing management considerations, including remaining available shark quotas, estimated dates for the fishery closures, the regional variations in the shark fisheries, and equitable fishing opportunities. Additionally, regulations implementing Amendment 6 of the 2006 Atlantic Consolidated HMS FMP (80 FR 50074, August 18, 2015) intended that the LCS retention limit could be adjusted quickly throughout the fishing season to provide management flexibility for the shark fisheries and provide equitable fishing opportunities to fishermen throughout a region. Based on available shark quotas and informed by shark landings in previous seasons, responsive adjustment to the LCS commercial retention limit from the incidental level is warranted as quickly as possible to allow fishermen to take advantage of available quotas while sharks are present in their region. For such adjustment to be practicable, it must occur in a timeframe that allows fishermen to take advantage of it.

Adjustment of the LCS fisheries retention limit in the Atlantic region will begin on November 6, 2018. Prior notice would result in delays in increasing the retention limit and would adversely affect those shark fishermen that would otherwise have an opportunity to harvest more than the current retention limit of 36 LCS other than sandbar sharks per vessel per trip and could result in low catch rates and underutilized quotas. Analysis of available data shows that adjustment of the LCS commercial retention limit upward to 45 would result in minimal risks of exceeding the aggregated LCS and hammerhead shark quotas in the Atlantic region based on our consideration of previous years' data, in which the fisheries have opened in July. With quota available and with no measurable impacts to the stocks expected, it would be contrary to the public interest to require vessels to wait to harvest the sharks otherwise allowable through this action. Therefore, the AA finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment. Adjustment of the LCS commercial retention limit in the Atlantic region is effective November 6, 2018, to minimize any unnecessary disruption in fishing patterns and to allow fishermen to benefit from the adjustment. Foregoing opportunities to harvest the respective quotas could have negative social and economic impacts for U.S. fishermen that depend upon catching the available quotas. Therefore, the AA finds there is also good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness.

This action is being taken under § 635.24(a)(2) and is exempt from review under Executive Order 12866.

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

Dated: November 1, 2018.

Karen H. Abrams,

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

[FR Doc. 2018–24274 Filed 11–6–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 900124–0127]

RIN 0648–XG418

Atlantic Surfclam and Ocean Quahog Fisheries; 2019 Fishing Quotas for Atlantic Surfclams and Ocean Quahogs; and Suspension of Minimum Atlantic Surfclam Size Limit

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

ACTION: Temporary rule.

SUMMARY: NMFS suspends the minimum size limit for Atlantic surfclams for the 2019 fishing year. NMFS also announces that the quotas for the Atlantic surfclam and ocean quahog fisheries for 2019 will remain status quo. Regulations governing these fisheries require NMFS to notify the public of the allowable harvest levels for Atlantic surfclams and ocean quahogs from the Exclusive Economic Zone if the previous year's quota specifications remain unchanged.

DATES: Effective January 1, 2019, through December 31, 2019.

FOR FURTHER INFORMATION CONTACT: Douglas Potts, Fishery Policy Analyst, 978–281–9341.

SUPPLEMENTARY INFORMATION: The regulations implementing the Atlantic Surfclam and Ocean Quahog Fishery Management Plan (FMP) at 50 CFR 648.75(b)(3) authorize the Administrator, Greater Atlantic Region, NMFS (Regional Administrator), to suspend annually, by publication in the **Federal Register**, the minimum size limit for Atlantic surfclams. This action may be taken unless discard, catch, and biological sampling data indicate that 30 percent or more of the Atlantic surfclam resource have a shell length less than 4.75 inches (120 mm), and the overall reduced size is not attributable to harvest from beds where growth of the individual clams has been reduced because of density-dependent factors. At its June 2018 meeting, the Mid-Atlantic Fishery Management Council recommended the Regional Administrator suspend the minimum size limit for Atlantic surfclams for the 2019 fishing year. Commercial surfclam data for 2018 were analyzed to determine the percentage of surfclams that were smaller than the minimum size requirement. The analysis indicated that 20.2 percent of the overall commercial landings were composed of surfclams that were less than the 4.75-in (120-mm) default minimum size.

Based on the information available, the Regional Administrator concurs with the Council's recommendation, and is suspending the minimum size limit for Atlantic surfclams in the upcoming fishing year (January 1 through December 31, 2019).

The Atlantic Surfclam and Ocean Quahog FMP requires that NMFS issue a notice in the **Federal Register** of the upcoming year's quota, even in cases where the quota remains unchanged from the previous year. At its June 2018 meeting, the Council recommended no change to the quota specifications for Atlantic surfclams and ocean quahogs for the 2019 fishing year. As a result, we are announcing that the 2018 quota levels of 3.4 million bu (181 million L) for Atlantic surfclams, 5.33 million bu (288 million L) for ocean quahogs, and 100,000 Maine bu (3.52 million L) for Maine ocean quahogs, as announced in

the **Federal Register** on February 6, 2018 (83 FR 5212), remain effective for the 2019 fishing year.

Classification

This action is authorized by 50 CFR part 648 and is exempt from review under Executive Order 12866.

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

Dated: November 2, 2018.

Karen H. Abrams,

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

[FR Doc. 2018–24368 Filed 11–6–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

RIN 0648–XG025

Pacific Island Pelagic Fisheries; 2018 U.S. Territorial Longline Bigeye Tuna Catch Limits for the Commonwealth of the Northern Mariana Islands

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

ACTION: Announcement of a valid specified fishing agreement.

SUMMARY: NMFS announces a valid specified fishing agreement that allocates up to 1,000 metric tons (t) of the 2018 bigeye tuna limit for the Commonwealth of the Northern Mariana Islands (CNMI) to identified U.S. longline fishing vessels. The agreement supports the long-term sustainability of fishery resources of the U.S. Pacific Islands, and fisheries development in the CNMI.

DATES: The specified fishing agreement is valid on November 6, 2018.

ADDRESSES: NMFS prepared environmental analyses that describe the potential impacts on the human environment that would result from the action. The analyses, identified by NOAA–NMFS–2018–0026, are available from *https://www.regulations.gov/docket?D=NOAA-NMFS-2018-0026,* or from Michael D. Tosatto, Regional Administrator, NMFS Pacific Islands Region (PIR), 1845 Wasp Blvd., Bldg. 176, Honolulu, HI 96818.

The Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific (Pelagic FEP) is available from the Western Pacific Fishery Management Council (Council), 1164 Bishop St., Suite 1400, Honolulu, HI 96813, tel 808–522–8220, fax 808–522–8226, or *http://www.wpcouncil.org.*

FOR FURTHER INFORMATION CONTACT: Rebecca Walker, NMFS PIRO Sustainable Fisheries, 808–725–5184.

SUPPLEMENTARY INFORMATION: In a final rule published on October 23, 2018, NMFS specified a 2018 limit of 2,000 t of longline-caught bigeye tuna for the U.S. Pacific Island territories of American Samoa, Guam, and the CNMI (83 FR 53399). NMFS allows each territory to allocate up to 1,000 t of the 2,000 t limit to U.S. longline fishing vessels identified in a valid specified fishing agreement.

On October 22, 2018, NMFS received from the Council a specified fishing agreement between the CNMI and Quota Management, Inc. (QMI). The Council's Executive Director advised that the specified fishing agreement was consistent with the criteria set forth in 50 CFR 665.819(c)(1). NMFS reviewed the agreement and determined that it is consistent with the Pelagic FEP, the Magnuson-Stevens Fishery Conservation and Management Act, implementing regulations, and other applicable laws.

In accordance with 50 CFR 300.224(d) and 50 CFR 665.819(c)(9), vessels identified in the agreement may retain and land bigeye tuna in the western and central Pacific Ocean under the CNMI limit. NMFS will begin attributing bigeye tuna caught by vessels identified in the agreement to the CNMI starting on October 25, 2018. If NMFS determines that the fishery will reach the attribution limit of 1,000 t, we will restrict the retention of bigeye tuna caught by vessels identified in the agreement, unless the vessels are included in a subsequent specified fishing agreement with another U.S. territory.

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

Dated: November 1, 2018.

Karen H. Abrams,

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

[FR Doc. 2018–24278 Filed 11–6–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 170817779–8161–02]

RIN 0648–XG116

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific ocean perch in the Eastern Aleutian district (EAI) of the Bering Sea and Aleutian Islands management area (BSAI) by vessels participating in the BSAI trawl limited access fishery. This action is necessary to prevent exceeding the 2018 total allowable catch (TAC) of Pacific ocean perch in the EAI allocated to vessels participating in the BSAI trawl limited access fishery.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), November 2, 2018, through 2400 hrs, A.l.t., December 31, 2018.

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

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

The 2018 TAC of Pacific ocean perch, in the EAI, allocated to vessels participating in the BSAI trawl limited access fishery was established as a directed fishing allowance of 794 metric tons by the final 2018 and 2019 harvest specifications for groundfish in the BSAI (83 FR 8365, February 27, 2018).

In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific ocean perch in the EAI by vessels participating in the BSAI trawl limited access fishery.

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

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA) finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such a 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 the Pacific ocean perch directed fishery in the EAI for vessels participating in the BSAI trawl limited access fishery. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of November 1, 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: November 2, 2018.

Karen H. Abrams,

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

[FR Doc. 2018–24375 Filed 11–2–18; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 83, No. 216

Wednesday, November 7, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[NRC–2018–0212]

RIN 3150–AK16

List of Approved Spent Fuel Storage Casks: TN Americas LLC, Standardized NUHOMS® System, Certificate of Compliance No. 1004, Renewed Amendment No. 15

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is proposing to amend its spent fuel storage regulations by revising the TN Americas LLC Standardized NUHOMS® Horizontal Modular Storage System (NUHOMS® System) listing within the ''List of approved spent fuel storage casks'' to include Renewed Amendment No. 15 to Certificate of Compliance No. 1004. Because this amendment is subsequent to the renewal of the TN Americas LLC Standardized NUHOMS® Certificate of Compliance 1004 system and, therefore, subject to the Aging Management Program requirements of the renewed certificate, it is referred to as ''Renewed Amendment No. 15.'' Renewed Amendment No. 15 would revise the Certificate of Compliance's technical specifications to: Unify and standardize fuel qualification tables; revise existing and add new heat load zoning configurations; increase the allowable maximum assembly average burnup; allow loading of damaged fuel assemblies under certain conditions; expand the definition of the poison rod assemblies to include rod cluster control assembly materials; allow other zirconium alloy cladding materials; add model OS197 as an authorized transfer cask; add the description for the solar shield in the updated final safety analysis report; and add flexibility to general licensees in verifying compliance regarding the storage pad location and the soil-structure interaction. Additionally, the rulemaking would make clarifications to rule text related to Certificate of Compliance No. 1004 by removing redundant language.

DATES: Submit comments by December 7, 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.

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–2018–0212. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Email comments to: Rulemaking.Comments@nrc.gov.* If you do not receive an automatic email reply confirming receipt, then contact us at 301–415–1677.
- *Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at 301–415–1101.
- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.
- *Hand deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. (Eastern Time) Federal workdays; telephone: 301–415–1677.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Christian Jacobs, Office of Nuclear Material Safety and Safeguards; telephone: 301–415–6825; email: *Christian.Jacobs@nrc.gov* or Edward M. Lohr, Office of Nuclear Material Safety and Safeguards; telephone: 301–415–0253; email: *Edward.Lohr@nrc.gov.* Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

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II. Rulemaking Procedure
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I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2018–0212 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2018–0212.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the ''Availability of Documents'' section.
- *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–2018–0212 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include

identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Rulemaking Procedure

This proposed rule is limited to the changes contained in Renewed Amendment No. 15 to Certificate of Compliance 1004 and does not include other aspects of the TN Americas LLC Standardized NUHOMS® System design. Because the NRC considers this action non-controversial and routine, the NRC is publishing this proposed rule concurrently with a direct final rule in the Rules and Regulations section of this issue of the **Federal Register**. The direct final rule will become effective on January 22, 2019. However, if the NRC receives significant adverse comments on this proposed rule by December 7, 2018, then the NRC will publish a document that withdraws the direct final rule. If the direct final rule is withdrawn, the NRC will address the comments received in response to these proposed revisions in a subsequent final rule. Absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period on this action in the event the direct final rule is withdrawn.

A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, a substantive response is required when:

(a) The comment causes the NRC to reevaluate (or reconsider) its position or conduct additional analysis;

(b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(c) The comment raises a relevant issue that was not previously addressed or considered by the NRC.

(2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

(3) The comment causes the NRC to make a change (other than editorial) to the rule.

For procedural information and the regulatory analysis, see the direct final rule published in the Rules and Regulations section of this issue of the **Federal Register**.

III. Background

Section 218(a) of the Nuclear Waste Policy Act (NWPA) of 1982, as amended, requires that ''the Secretary [of the Department of Energy] shall establish a demonstration program, in cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear power reactor sites, with the objective of establishing one or more technologies that the [Nuclear Regulatory] Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission.'' Section 133 of the NWPA states, in part, that ''[the Commission] shall, by rule, establish procedures for the licensing of any technology approved by the Commission under Section 219(a) [sic: 218(a)] for use at the site of any civilian nuclear power reactor.''

To implement this mandate, the Commission approved dry storage of spent nuclear fuel in NRC-approved casks under a general license by publishing a final rule which added a new subpart K in part 72 of title 10 of the *Code of Federal Regulations* (10 CFR) entitled ''General License for Storage of Spent Fuel at Power Reactor Sites'' (55 FR 29181; July 18, 1990). This rule also established a new subpart L in 10 CFR part 72 entitled ''Approval of Spent Fuel Storage Casks,'' which contains procedures and criteria for obtaining NRC approval of spent fuel storage cask designs. The NRC subsequently issued a final rule on December 22, 1994 (59 FR 65898), that approved the TN Americas LLC Standardized NUHOMS® System design and added it to the list of NRC-approved cask designs provided in § 72.214 as Certificate of Compliance No. 1004. Most recently, on September 27, 2017 (82 FR 44879), the NRC issued a Renewal of the revised initial certificate and Amendment Nos. 1 through 11, 13 and 14.

IV. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to write documents in a clear, concise, well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, ''Plain Language in Government Writing,'' published June 10, 1998 (63 FR 31883). The NRC requests comment on the proposed rule with respect to the clarity and effectiveness of the language used.

V. Availability of Documents

The documents identified in the following table are available to interested persons through one or more of the following methods, as indicated.

Document	ADAMS accession No./ web link/Federal Register citation
TN Americas LLC Request to Add Amendment No. 15 to Certificate of Compliance No. 1004, letter dated March 28, 2017.	ML17094A714 (Package).
Revision to TN Americas LLC Request to Add Amendment No. 15 to Certificate of Compliance No. 1004, letter dated July 18, 2017.	ML17202Q145.
Revision to TN Americas LLC Request to Add Amendment No. 15 to Certificate of Compliance No. 1004, letter dated December 14, 2017.	ML17363A276 (Package).
Revision to TN Americas LLC Request to Add Amendment No. 15 to Certificate of Compliance No. 1004, letter dated March 22, 2018.	ML18088A180.
TN Americas LLC Renewed Amendment No. 15 to Certificate of Compliance No. 1004	ML18228A531.
Technical Specifications for TN Americas LLC Renewed Amendment No. 15 to Certificate of Compliance No. 1004.	ML18228A530.
Preliminary Safety Evaluation Report for TN Americas LLC Renewed Amendment No. 15 to Certificate of Compliance No. 1004.	ML18234A012.

The NRC may post materials related to this document, including public comments, on the Federal Rulemaking website at *http://www.regulations.gov* under Docket ID NRC–2018–0212. The Federal Rulemaking website allows you to receive alerts when changes or additions occur in a docket folder. To subscribe: (1) Navigate to the docket folder (NRC–2018–0212); (2) click the ''Sign up for Email Alerts'' link; and 3) enter your email address and select how frequently you would like to receive emails (daily, weekly, or monthly).

List of Subjects in 10 CFR Part 72

Administrative practice and procedure, Hazardous waste, Indians, Intergovernmental relations, Nuclear energy, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Whistleblowing.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; the Nuclear Waste Policy Act of 1982, as amended; and 5 U.S.C. 552 and 553; the NRC is proposing to adopt the following amendments to 10 CFR part 72:

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL, HIGH-LEVEL RADIOACTIVE WASTE, AND REACTOR-RELATED GREATER THAN CLASS C WASTE

■ 1. The authority citation for part 72 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 223, 234, 274 (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2210e, 2232, 2233, 2234, 2236, 2237, 2238, 2273, 2282, 2021); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); National Environmental Policy Act of 1969 (42 U.S.C. 4332); Nuclear Waste Policy Act of 1982, secs. 117(a), 132, 133, 134, 135, 137, 141, 145(g), 148, 218(a) (42 U.S.C. 10137(a), 10152, 10153, 10154, 10155, 10157, 10161, 10165(g), 10168, 10198(a)); 44 U.S.C. 3504 note.

■ 2. In § 72.214, Certificate of Compliance 1004 is revised to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1004.

Initial Certificate Effective Date: January 23, 1995, superseded by Initial Certificate, Revision 1, on April 25, 2017, superseded by Renewed Initial Certificate, Revision 1, on December 11, 2017.

Renewed Initial Certificate, Revision 1, Effective Date: December 11, 2017.

Amendment Number 1 Effective Date: April 27, 2000, superseded by Amendment Number 1, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 1, Revision 1, on December 11, 2017.

Renewed Amendment Number 1, Revision 1, Effective Date: December 11, 2017.

Amendment Number 2 Effective Date: September 5, 2000, superseded by Amendment Number 2, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 2, Revision 1, on December 11, 2017.

Renewed Amendment Number 2, Revision 1, Effective Date: December 11, 2017.

Amendment Number 3 Effective Date: September 12, 2001, superseded by Amendment Number 3, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 3, Revision 1, on December 11, 2017.

Renewed Amendment Number 3, Revision 1, Effective Date: December 11, 2017.

Amendment Number 4 Effective Date: February 12, 2002, superseded by Amendment Number 4, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 4, Revision 1, on December 11, 2017.

Renewed Amendment Number 4, Revision 1, Effective Date: December 11, 2017.

Amendment Number 5 Effective Date: January 7, 2004, superseded by Amendment Number 5, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 5, Revision 1, on December 11, 2017.

Renewed Amendment Number 5, Revision 1, Effective Date: December 11, 2017.

Amendment Number 6 Effective Date: December 22, 2003, superseded by Amendment Number 6, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 6, Revision 1, on December 11, 2017.

Renewed Amendment Number 6, Revision 1, Effective Date: December 11, 2017.

Amendment Number 7 Effective Date: March 2, 2004, superseded by Amendment Number 7, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 7, Revision 1, on December 11, 2017.

Renewed Amendment Number 7, Revision 1, Effective Date: December 11, 2017.

Amendment Number 8 Effective Date: December 5, 2005, superseded by Amendment Number 8, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 8, Revision 1, on December 11, 2017.

Renewed Amendment Number 8, Revision 1, Effective Date: December 11, 2017.

Amendment Number 9 Effective Date: April 17, 2007, superseded by Amendment Number 9, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 9, Revision 1, on December 11, 2017.

Renewed Amendment Number 9, Revision 1, Effective Date: December 11, 2017.

Amendment Number 10 Effective Date: August 24, 2009, superseded by Amendment Number 10, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 10, Revision 1, on December 11, 2017.

Renewed Amendment Number 10, Revision 1, Effective Date: December 11, 2017.

Amendment Number 11 Effective Date: January 7, 2014, superseded by Amendment Number 11, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 11, Revision 1, on December 11, 2017.

Renewed Amendment Number 11, Revision 1, Effective Date: December 11, 2017, as corrected (ADAMS Accession No. ML18018A043).

Amendment Number 12 Effective Date: Amendment not issued by the NRC.

Amendment Number 13 Effective Date: May 24, 2014, superseded by Amendment Number 13, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 13, Revision 1, on December 11, 2017.

Renewed Amendment Number 13, Revision 1, Effective Date: December 11, 2017, as corrected (ADAMS Accession No. ML18018A100).

Amendment Number 14 Effective Date: April 25, 2017, superseded by Renewed Amendment Number 14, on December 11, 2017.

Renewed Amendment Number 14 Effective Date: December 11, 2017.

Renewed Amendment Number 15 Effective Date: January 22, 2019.

SAR Submitted by: Transnuclear, Inc.

SAR Title: Final Safety Analysis Report for the Standardized NUHOMS® Horizontal Modular Storage System for Irradiated Nuclear Fuel.

Docket Number: 72–1004.

Certificate Expiration Date: January 23, 2015.

Renewed Certificate Expiration Date: January 23, 2055.

Model Number: NUHOMS®–24P, –24PHB, –24PTH, –32PT, –32PTH1,

–37PTH, –52B, –61BT, –61BTH, and –69BTH.

* * * * *

Dated at Rockville, Maryland, this 24th day of October 2018.

For the Nuclear Regulatory Commission.

Margaret M. Doane,

Executive Director for Operations.

[FR Doc. 2018–24256 Filed 11–6–18; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–103163–18]

RIN 1545–BO50

Modification of Discounting Rules for Insurance Companies

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking; notice of public hearing.

SUMMARY: This document contains proposed regulations providing guidance on new discounting rules for unpaid losses and estimated salvage recoverable of insurance companies for Federal income tax purposes. The proposed regulations implement recent legislative changes to the Internal Revenue Code (Code) and make other technical improvements to the derivation and use of discount factors. The proposed regulations affect entities taxable as insurance companies. This document invites comments and provides notice of a public hearing on these proposed regulations.

DATES: Written or electronic comments must be received by December 7, 2018. Requests to speak and outlines of topics to be discussed at the public hearing scheduled for December 20, 2018, at 10 a.m., must be received by December 7, 2018.

ADDRESSES:

Comments: Send submissions to: CC:PA:LPD:PR (REG–103163–18), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–103163–18), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224, or sent electronically via the Federal eRulemaking Portal at *http://www.regulations.gov* (REG–103163–18).

Public hearing: The public hearing will be held in the IRS Auditorium, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Kathryn M. Sneade, (202) 317–6995; concerning submissions of comments and requests to speak at the public hearing, Regina L. Johnson, (202) 317–6901 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to 26 CFR part 1 under section 846 of the Code. Section 846 was added to the Code by section 1023(c) of the Tax Reform Act of 1986, Public Law 99–514 (100 Stat. 2085, 2399). Final regulations under section 846 were published in the **Federal Register** (57 FR 40841) on September 8, 1992 (T.D. 8433). See §§ 1.846–0 through 1.846–4 (1992 Final Regulations).

This document provides guidance on discounting rules under section 846 of the Code, which were amended on December 22, 2017 by section 13523 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, title 1, 131 Stat. 2152 (2017) (TCJA) for taxable years beginning after December 31, 2017. The discounting rules of section 846, both prior to and after amendment by the TCJA, are used to determine discounted unpaid losses and estimated salvage recoverable of property and casualty insurance companies and discounted unearned premiums of title insurance companies for Federal income tax purposes under section 832, as well as discounted unpaid losses of life insurance companies for Federal income tax purposes under sections 805(a)(1) and 807(c)(2). These rules are discussed in greater detail in parts A and B of this Background section.

Section 13523(a) of the TCJA amended section 846(c) to provide a new definition of the ''annual rate'' to be used by taxpayers for discounting purposes. Section 13523(b) of the TCJA amended the computational rules for determining loss payment patterns under section 846(d). Section 13523(c) of the TCJA repealed the election under former section 846(e) to use the taxpayer's own historical loss payment pattern instead of the pattern published by the Secretary. These changes are effective for taxable years beginning after December 31, 2017. The proposed regulations implement these changes in the law.

Part C of this Background section discusses smoothing adjustments, and part C of the Explanation of Provisions section of this preamble describes a proposed regulation authorizing the Secretary to adopt a methodology to smooth the loss payment patterns derived from the annual statement loss payment data to avoid negative payment amounts and to otherwise produce a stable pattern of positive discount factors less than one. Part A of the Other Discounting Considerations section of this preamble provides additional detail on the proposed methodology that the Department of the Treasury (Treasury Department) and the IRS anticipate developing under the authority provided in this proposed regulation. The Treasury Department and the IRS intend to describe the methodology used under the rules set forth in the proposed regulations in each revenue procedure that publishes discount factors for a determination year.

Part D of this Background section describes the existing procedures for discounting unpaid losses with respect to accident years not separately reported on the National Association of Insurance Commissioners' (NAIC) annual statement, including the method described in section V of Notice 88–100, 1988–2 C.B. 439 (composite method). Part B of the Other Discounting Considerations section of this preamble describes proposed new procedures for discounting such unpaid losses. These procedures would simplify the discounting of unpaid losses by eliminating the need for a second set of discount factors to be used with respect to accident years not separately reported on the NAIC annual statement.

Part C of the Other Discounting Considerations section of this preamble describes an approach that the Secretary intends to adopt for discounting estimated salvage recoverable by applying the unpaid loss discount factors in each line of business to the estimated salvage recoverable in that line of business.

A. Discounted Unpaid Losses, Estimated Salvage Recoverable, and Discounted Unearned Premiums

Under section 832, the taxable income of a property and casualty insurance company (non-life insurance company), including a title insurance company, is the sum of its underwriting income and investment income (as well as gains and other income items), reduced by allowable deductions. Under section 832(b)(3), a non-life insurance company's ''losses incurred'' is a

component of the company's underwriting income. Under section 832(b)(5)(A), the change over a taxable year in the company's ''discounted unpaid losses'' (as defined in section 846) is a component of its losses incurred for the taxable year. Discounting of unpaid losses is required to take into account the time value of money. See H. Rept. 115–466, at 470 (2017) (Conf. Rep.). Under section 832(b)(3), (4), and (8), a title insurance company's ''discounted unearned premiums'' is a component of the company's underwriting income. Under section 832(b)(8), a title insurance company must discount its unearned premiums by using the applicable interest rate and the applicable statutory premium recognition pattern. The applicable interest rate for purposes of section 832(b)(8) is the annual rate determined under section 846(c)(2).

Section 832(b)(5)(A) also requires that the change in discounted estimated salvage recoverable be taken into account in computing the losses incurred component of underwriting income. Under section 832(b)(5)(A), the amount of discounted estimated salvage recoverable is determined in accordance with procedures established by the Secretary. Section 1.832–4(c) provides that, except as otherwise provided in guidance published by the Commissioner in the Internal Revenue Bulletin, estimated salvage recoverable must be discounted either (1) by using the applicable discount factors published by the Commissioner for estimated salvage recoverable; or (2) by using the loss payment pattern for a line of business as the salvage recovery pattern for that line of business and by using the applicable interest rate for calculating unpaid losses under section 846(c). In prior years, guidance published by the Commissioner in the Internal Revenue Bulletin has always directed taxpayers to discount estimated salvage recoverable for each line of business using the applicable discount factors published by the Commissioner for estimated salvage recoverable and has not allowed the use of the second option provided for by regulations. These discount factors were determined using the salvage recovery pattern for the line of business and the applicable interest rate for calculating unpaid losses under section 846. See, *e.g.,* Rev. Proc. 2018–13, 2018–7 I.R.B. 356, and Rev. Proc. 2016–59, 2016–51 I.R.B. 849.

The section 846 discounting rules are also relevant for life insurance companies. Section 807(c) provides that, for life insurance companies, the amount of unpaid losses (other than losses on life insurance contracts) is the amount of discounted unpaid losses as defined in section 846 for purposes of both sections 805(a)(1) and 807(c)(2). Section 805(a)(1) provides life insurance companies with a deduction for losses incurred during the taxable year on insurance and annuity contracts. Section 807(c)(2) provides that unpaid losses included in total reserves under section 816(c)(2) are taken into account under section 807(a) and (b) by a life insurance company. In general, section 807(a) provides that a decrease in discounted unpaid losses over the taxable year is included in life insurance company gross income under section 803(a)(2), while section 807(b) provides that an increase in discounted unpaid losses over the taxable year is deductible under section 805(a)(2).

B. Discounting Rules for Unpaid Losses

Section 846(a)(1) provides that the amount of discounted unpaid losses as of the end of any taxable year is the sum of the discounted unpaid losses, as of such time, separately computed with respect to unpaid losses in each line of business for each accident year. The amount of discounted unpaid losses in a line of business that is attributable to a specified accident year is calculated by multiplying that accident year's undiscounted unpaid losses at the end of each taxable year by a published discount factor associated with that line of business, accident year, and taxable year. Discount factors are published annually by the IRS. See, *e.g.,* Rev. Proc. 2018–13 and Rev. Proc. 2016–58, 2016–51 I.R.B. 839. These discount factors are derived using the applicable loss payment pattern, determined under section 846(d) using aggregate industry loss payment data, and the applicable interest rate determined by the Secretary under section 846(c).

1. Modification of the Applicable Rate of Interest Used To Discount Unpaid Losses

The ''applicable interest rate'' used to determine the discount factors associated with any accident year and line of business is the ''annual rate'' determined under section 846(c)(2).

Before amendment by section 13523(a) of the TCJA, section 846(c)(2) provided that the annual rate for any calendar year was a rate equal to the average of the applicable Federal mid-term rates (as defined in section 1274(d) but based on annual compounding) effective as of the beginning of each of the calendar months in the most recent 60-month period ending before the beginning of the calendar year for which the determination is made. The applicable Federal mid-term rate is determined by the Secretary based on the average market yield on outstanding marketable obligations of the United States with remaining periods of over three years but not over nine years. See section 1274(d)(1).

As amended by section 13523(a) of the TCJA, section 846(c)(2) provides that the annual rate for any calendar year will be determined by the Secretary based on the corporate bond yield curve (as defined in section 430(h)(2)(D)(i), determined by substituting ''60-month period'' for ''24-month period'' therein). Section 430, which relates to minimum funding standards for single-employer defined benefit pension plans, includes other rules for determining an ''effective interest rate,'' such as segment rate rules. The term ''effective interest rate'' along with these other rules, including the segment rate rules, do not apply for purposes of property and casualty insurance reserve discounting. See H. Rept. 115–466, at 471, fn. 979. The corporate bond yield curve is published on a monthly basis by the Treasury Department and consists of spot interest rates for each stated time to maturity. See, *e.g.,* Notice 2018–60, 2018–31 I.R.B. 275. The spot rate for a given time to maturity represents the yield on a bond that gives a single payment at that maturity. For the stated yield curve, times to maturity are specified at half-year intervals from 0.5 year through 100 years. Section 846(c)(2) does not specify how the Secretary is to determine the annual rate for any calendar year based on the corporate bond yield curve.

2. Modification of Computational Rules for Loss Payment Patterns

Under section 846(d)(1), the Secretary determines a loss payment pattern for each line of business by reference to the historical aggregate loss payment data applicable to that line of business for each determination year. Under section 846(d)(4), the determination year is the calendar year 1987 and each fifth calendar year thereafter. Any loss payment pattern determined by the Secretary applies to the accident year ending with the determination year and to each of the four succeeding accident years. Section 846(d)(2)(A) and (B) provide that the determination of a loss payment pattern for any determination year is made using the aggregate experience reported on the annual statements of insurance companies on the basis of the most recent published aggregate data relating to loss payments available on the first day of the determination year. For instance, the payment data used to determine the loss payment patterns for 2017 (the most recent determination year) were

reported on annual statements filed for the year 2015.

The loss payment pattern for each line of business is determined in accordance with the computational rules of section 846(d)(3). These rules determine different loss payment patterns for ''long-tail'' lines of business (any line of business reported in the schedule or schedules of the annual statement relating to auto liability, other liability, medical malpractice, workers' compensation, and multiple peril lines) and ''short-tail'' lines of business (all lines of business other than long-tail lines of business).

For short-tail lines of business, section 846(d)(3) provides that losses unpaid at the end of the first year following the accident year are treated as paid equally in the second and third years following the accident year. For long-tail lines of business, section 846(d)(3) provides that unpaid losses remaining after ten years are treated as paid in the tenth year following the accident year, except as otherwise provided in that section.

Before amendment by section 13523(b) of the TCJA, section 846(d)(3) provided for the extension of the ten-year payment period specified for long-tail lines by not more than five years provided certain conditions were met.

As amended by section 13523(b) of the TCJA, section 846(d)(3) provides for the extension of the ten-year payment period for a maximum of fourteen additional years if the amount of losses that would have been treated as paid in the tenth year after the accident year exceeds the average of the loss payments treated as paid in the seventh, eighth, and ninth years after the accident year. In that case, the amount of losses that would have been treated as paid in the tenth year after the accident year are treated as paid in such tenth year and each subsequent year in an amount equal to the average of the loss payments treated as paid in the seventh, eighth, and ninth years after the accident year (or, if less, the portion of the unpaid losses not previously taken into account). To the extent such unpaid losses have not been treated as paid before the twenty-fourth year after the accident year, they are to be treated as paid in such twenty-fourth year.

In addition to extending the ten-year payment period, section 13523(b) of the TCJA repealed section 846(d)(3)(E) through (G). Former section 846(d)(3)(G) is discussed in part C of this Background section. Former section 846(d)(3)(F) provided for the Secretary to make appropriate adjustments if annual statement data with respect to payment of losses was available for longer periods after the accident year than the periods assumed under section 846(d). The annual statement requires the reporting of ten years of loss payment data for the international line of business and the three lines of business for non-proportional reinsurance, as it does for long-tail lines of business. Losses from proportional reinsurance are reported in the annual statement schedules related to the underlying line of business, which may be short-tail or long-tail. Under section 846(d)(3), proportional reinsurance unpaid losses are discounted using the discount factors published for the underlying line of business. Former section 846(d)(3)(E) provided special rules for determining loss payment patterns for the international line of business and for reinsurance lines of business based on the combined losses for all long-tail lines of business and provided explicit authority to the Secretary to override these special rules.

The repeal of section 846(d)(3)(E) and (F) means that the statute no longer explicitly provides for the determination of loss payment patterns for non-proportional reinsurance and international lines of business extending beyond three calendar years following the accident year. Non-proportional reinsurance and international lines of business are not included in the list of long-tail lines set forth in section 846(d)(3)(A)(ii). The Treasury Department and the IRS request comments regarding the length of the loss payment patterns for non-proportional reinsurance and international lines of business to be determined under section 846, as amended, and the legal basis for limiting the loss payment patterns for these lines of business to three calendar years following the accident year or extending the loss payment patterns beyond those years.

Section 846(f) (as redesignated by section 13523(c) of the TCJA) provides the Secretary with authority to prescribe such regulations as may be necessary or appropriate to carry out the purposes of section 846, including an explicit grant of authority to prescribe regulations for providing proper treatment of allocated reinsurance. The 1992 Final Regulations provide special rules for the determination of discount factors for proportional and non-proportional reinsurance lines of business and the international line of business. Section 1.846–1(b)(3) of the 1992 Final Regulations provides rules for the determination of discount factors for reinsurance lines of business. Section 1.846–1(b)(3)(i) provides that, with respect to proportional reinsurance lines of business (for accident years after 1987), unpaid losses are discounted using discount factors applicable to the line of business to which those unpaid losses are allocated as required on the annual statement. Section 1.846–1(b)(3)(ii)(A) provides that unpaid losses for non-proportional reinsurance (for accident years after 1991) are discounted using the discount factors published by the IRS for the appropriate reinsurance line of business, subject to an exception set forth in § 1.846–1(b)(3)(iv) (if more than 90 percent of the unallocated losses of a taxpayer for an accident year relate to one underlying line of business, the taxpayer must discount all unallocated reinsurance unpaid losses attributable to that accident year using the discount factors published by the IRS for the underlying line of business). Section 1.846–1(b)(3)(ii)(B) provides rules for unpaid losses for non-proportional reinsurance for accident years 1988 through 1991, and § 1.846–1(b)(3)(iii) provides rules for certain reinsurance unpaid losses for accident years before 1988.

Section 1.846–1(b)(4) of the 1992 Final Regulations provides rules for the determination of discount factors for the international line of business. Section 1.846–1(b)(4) provides that unpaid losses attributable to the international line of business are discounted using the discount factors determined for a ''composite'' long-tail line of business, unless more than 90 percent of such losses for that accident year are related to a single line of business, in which case the international unpaid losses are discounted using that accident year's published discount factors for the underlying line of business.

3. Repeal of Historical Loss Payment Pattern Election

Before amendment by section 13523(c) of the TCJA, section 846(e) permitted a taxpayer to elect to use its own historical loss payment pattern with respect to all lines of business rather than the industry-wide loss payment pattern determined by the Secretary under section 846(d), provided that applicable requirements were met. Section 13523(c) of the TCJA repealed that election.

4. Transition Rule

The transition rule set forth in section 13523(e) of the TCJA provides that, for the first taxable year beginning after December 31, 2017, the unpaid losses and expenses unpaid (as defined in section 832(b)(5) and (6)) at the end of the preceding taxable year, and the unpaid losses (as defined in sections

805(a)(1) and 807(c)(2)) at the end of the preceding taxable year, are determined as if the amendments made by section 13523 of the TCJA had applied to such unpaid losses and expenses unpaid in the preceding taxable year and by using the interest rate and loss payment patterns applicable to accident years ending with calendar year 2018. Any adjustment resulting from this transition rule is taken into account ratably in such first taxable year and the seven succeeding taxable years. For subsequent taxable years, such amendments are applied with respect to unpaid losses and expenses unpaid for accident years ending with or before calendar year 2018 by using the interest rate and loss payment patterns applicable to accident years ending with calendar year 2018.

C. Smoothing Adjustments

As described in part B(2) of this Background section, section 846(d)(1) requires the Secretary to determine, for each determination year, a loss payment pattern for each line of business by reference to the historical aggregate loss payment data applicable to that line of business. The Secretary makes such determination using the aggregate experience reported on the annual statements of insurance companies on the basis of the most recent published aggregate data from such annual statements relating to loss payment patterns available on the first day of the determination year. Because historical loss payment patterns change from accident year to accident year, the annual payment amounts determined on the basis of data taken from a single year's annual statements are not always non-negative and may vary significantly from year to year. Accordingly, use of the annual statement payment data to determine the loss payment pattern without any adjustment to compensate for changes from year to year may produce discount factors that vary widely from one year to the next or discount factors for a particular year or years that are negative or greater than one. See Rev. Proc. 2003–17, 2003–1 C.B. 427.

Former section 846(d)(3)(G), prior to its repeal by section 13523 of the TCJA, provided guidance on one aspect of smoothing. Former section 846(d)(3)(G) provided that, if the amount of losses treated as paid in the ninth year after the accident was negative or zero, the average of the losses treated as paid in the seventh, eighth, and ninth years after the accident year would be used instead to determine the amount of losses treated as paid in the following years. Section 846(d)(3)(B)(ii)(II), as amended by section 13523(b) of the TCJA, provides that the average of the loss payments treated as paid in the seventh, eighth, and ninth years after the accident year is used to determine the amount of losses treated as paid in the following years. Section 846, as amended, provides no additional specific guidance regarding smoothing of the loss payment patterns.

In section 2.03(4) of Rev. Proc. 2003–17 and section 3.04 of Rev. Proc. 2007–9, 2007–3 I.R.B. 278, comments were requested as to whether a methodology should be adopted to smooth the annual statement payment data, and thus produce a more stable pattern of discount factors. The Treasury Department and the IRS received comments that agreed that such a methodology should be adopted and suggested specific methods that could be used.

D. Composite Method

Rules for discounting unpaid losses with respect to accident years not separately reported on the NAIC annual statement are described in section V of Notice 88–100 and in Rev. Proc. 2002–74, 2002–2 C.B. 980.

After the enactment of section 846 in 1986, the Treasury Department and the IRS published Notice 88–100 to provide guidance with respect to several issues that were expected to be addressed in then forthcoming regulations under section 846. Section V of Notice 88–100 stated that regulations under section 846 would provide that taxpayers may not use information that does not appear on their NAIC annual statements to allocate aggregate unpaid losses among several accident years, but rather must use a composite discount factor for such aggregated unpaid losses. The notice set forth a method for computing a composite discount factor to be used to compute discounted unpaid losses with respect to accident years not separately reported on the NAIC annual statement, referred to as the ''composite method.'' The notice provided a simplified example to illustrate the operation of this method.

The 1992 Final Regulations provided guidance on several issues addressed in Notice 88–100, rendering portions of Notice 88–100 obsolete. However, the 1992 Final Regulations did not adopt the rule anticipated by section V of Notice 88–100 requiring that taxpayers use a composite discount factor for the aggregate unpaid losses from accident years not separately reported on the NAIC annual statement, and therefore section V of Notice 88–100 was not rendered obsolete.

The 1992 Final Regulations adopted a rule requiring taxpayers to use composite discount factors with respect to any line of business for which the IRS has not published discount factors. See § 1.846–1(b)(1)(ii) and (5) of the 1992 Final Regulations. Composite discount factors determined on the basis of the appropriate composite loss payment pattern are published annually by the IRS for use with respect to such lines of business. However, these composite discount factors are unrelated to the composite discount factors of Notice 88–100 that relate to discounting unpaid losses from accident years not separately reported on the NAIC annual statement.

Section 3.01 of Rev. Proc. 2002–74 clarifies that the composite method described in section V of Notice 88–100 is permitted but not required to be used by insurance companies. Section 3.01 also provides that the Secretary will publish composite discount factors annually for use by taxpayers that have not elected under section 846(e) to use their historical loss payment patterns, and such factors have been published annually since 2002, along with the Secretary's tables containing the section 846 loss payment patterns and discount factors and the section 832 salvage discount factors. See, *e.g.,* Rev. Proc. 2016–58. Section 3.02 of Rev. Proc. 2002–74 provides, in part, that taxpayers who do not use a composite method described in section 3.01 of Rev. Proc. 2002–74 should instead use the discount factors for the appropriate year in the Secretary's table for the appropriate line of business. Sections 3.01 and 3.02 of Rev. Proc. 2002–74 also provide instructions for taxpayers that have elected under section 846(e) to use their historical loss payment patterns. However, as discussed in part B(3) of this Background section, section 13523(c) of the TCJA repealed section 846(e).

Explanation of Provisions

A. Modification of the Applicable Rate of Interest Used To Discount Unpaid Losses

Proposed § 1.846–1(c) provides that the applicable interest rate is the annual rate determined by the Secretary for any calendar year on the basis of the corporate bond yield curve (as defined in section 430(h)(2)(D)(i), determined by substituting ''60-month period'' for ''24-month period'' therein). The annual rate for any calendar year is the average of the corporate bond yield curve's monthly spot rates with times to maturity of not more than seventeen and one-half years, computed using the most

recent 60-month period ending before the beginning of the calendar year for which the determination is made.

Consistent with the text of section 846, as amended by the TCJA, and the statutory structure as a whole, the proposed regulations provide for the use of a single annual rate applicable to all lines of business as was the case under section 846 prior to amendment by the TCJA. Under section 846(c)(2) prior to amendment by section 13523(a) of the TCJA, a single annual rate was used for all lines of business, and the amendments made by the TCJA do not clearly indicate an intent to change from the historical practice of applying a single rate to all loss payment patterns. The change from using the average of the applicable Federal mid-term rates to the averaged corporate bond yield curve, however, indicates that the annual rate should be determined in a manner that more closely matches the investments in bonds used to fund the undiscounted losses to be incurred in the future by insurance companies.

An alternative approach would be the direct application of the corporate bond yield curve to the loss payment pattern for each line of business, which would result in a more accurate measure of the present value of the unpaid losses for each line of business. In light of the investment in corporate bonds to fund the unpaid losses to be paid in the future, the result is a more accurate reflection of the time value of money in the measure of income. Using this approach, for each taxable year, each future loss payment incurred in a line of business for an accident year (as determined by the loss payment pattern determined for that line of business) would be discounted using the spot rate from the corporate bond yield curve with a time to maturity that matches the time between the end of the accident year and the middle of the year of the loss payment.

Although the proposed regulations do not adopt this approach in light of the text of section 846 and the statutory structure as a whole, the maturity range used to determine the single rate applicable to all unpaid losses for all lines of business (times to maturity of not more than seventeen and one-half years) was selected to minimize the differences in taxable income, in the aggregate, resulting from the use of a single discount rate for a given accident year versus the direct application of the corporate bond yield curve for that accident year. For this purpose, losses incurred for the accident year were assumed to be those reported for 2015, and loss payments for each line of business were assumed to follow the loss payment pattern for that line of business determined using aggregate data reported on annual statements filed for 2015. Each maturity range considered had a half-year time to maturity as a lower bound, but had a different upper bound. Discount factors for all lines of business were calculated using the loss payment patterns and the discount rate applicable to the 2018 accident year, and a different discount rate was used for each maturity range being considered. For each maturity range, discounted unpaid losses and taxable income effects were computed for each line of business for the accident year and for each following taxable year. A present value of the taxable income effects for each line of business was calculated and subtracted from the present value of the taxable income effects calculated for that line of business using a direct application of the applicable corporate bond yield curve. Each present-value difference was expressed as a positive number, and these amounts were summed over all lines of business. The selected maturity range was the one that generated the smallest sum of present-value differences in taxable income effects.

In addition to the approach underlying the proposed regulations, the Treasury Department and the IRS considered a number of other options for determining the annual rate on the basis of the corporate bond yield curve. The Treasury Department and the IRS considered other ranges of maturities that could be used to determine a single annual rate applicable to all lines of business, such as the range of maturities used to determine the applicable Federal mid-term rate (over three years but not over nine years), as well as different maturity ranges of the same width (five and one-half years). The Treasury Department and the IRS also considered the use of a variable maturity range. Under a variable maturity range approach, the annual rate for any calendar year would be the average of the corporate bond yield curve's monthly spot rates with times to maturity contained within the range that would minimize, for that calendar year, the sum of differences in taxable income effects, selected in the same fashion as was the range adopted in the proposed regulations. Additionally, the Treasury Department and the IRS also considered (1) the use of two rates, one for long-tail lines of business, and one for short-tail lines of business; (2) the use of a different annual rate for each line of business; and (3) the direct application of the corporate bond yield curve.

The Treasury Department and the IRS request comments on the method of determining the annual rate on the basis of the corporate bond yield curve, including comments on whether a different option than the one incorporated in the proposed regulations should be adopted in the final regulations and, if so, the legal basis for that alternative option and explanation of how that option would more clearly reflect income.

B. Proposed Removal of Regulations

The proposed regulations propose to remove § 1.846–1(a)(2) of the 1992 Final Regulations because the examples are no longer relevant. The proposed regulations propose to remove § 1.846–1(b)(3)(ii)(B) and (b)(3)(iii) of the 1992 Final Regulations because these provisions apply only to accident years before 1992. The proposed regulations propose to remove § 1.846–1(b)(3)(iv) and (b)(4) of the 1992 Final Regulations because section 13523 of the TCJA repealed section 846(d)(3)(E). Section 1.846–1(b)(3)(i) and (b)(3)(ii)(A) of the 1992 Final Regulations are retained (with § 1.846–1(b)(3)(ii)(A) being redesignated as § 1.846–1(b)(3)(ii)) because these rules continue to provide for the proper treatment of reinsurance unpaid losses. The proposed regulations also propose to make conforming changes to § 1.846–1(a) and (b) of the 1992 Final Regulations to reflect the removal of various § 1.846–1 provisions, as well as the removal of §§ 1.846–2 and 1.846–3 of the 1992 Final Regulations.

Section 13523 of the TCJA repealed the section 846(e) election permitting a taxpayer to use its own historical loss payment pattern with respect to all lines of business rather than the industry-wide loss payment pattern determined by the Secretary under section 846(d), provided that applicable requirements were met. Section 1.846–2 of the 1992 Final Regulations, which provides rules for applying the section 846(e) election, is proposed to be removed.

Section 1.846–3 of the 1992 Final Regulations provides ''fresh start'' and reserve strengthening rules applicable to the last taxable year beginning before January 1, 1987, and the first taxable year beginning after December 31, 1986. Because the rules in § 1.846–3 are no longer applicable, § 1.846–3 is proposed to be removed.

Section 1.846–4 of the 1992 Final Regulations provides applicability dates for §§ 1.846–1 through 1.846–3 of the 1992 Final Regulations. Under § 1.846–4(a), § 1.846–1 applies to taxable years beginning after December 31, 1986. Because §§ 1.846–2 and 1.846–3 are proposed to be removed, a separate applicability date section for § 1.846–1 is no longer needed, and, therefore,

§ 1.846–4 is proposed to be removed. The applicability dates for § 1.846–1 are proposed to be included in proposed § 1.846–1(e), including the original applicability date for those portions of § 1.846–1 that are not proposed to be revised.

Section 1.846–0 of the 1992 Final Regulations, which provides a list of the headings in §§ 1.846–1 through 1.846–4 of the 1992 Final Regulations, is proposed to be removed.

On April 10, 2006, the Treasury Department and the IRS published in the **Federal Register** (71 FR 17990) a Treasury decision (T.D. 9257) containing §§ 1.846–2T and 1.846–4T. On January 23, 2008, the Treasury Department and the IRS published in the **Federal Register** (73 FR 3868) a Treasury decision (T.D. 9377) that finalized the rules contained in § 1.846–2T in § 1.846–2 and finalized the rules contained in § 1.846–4T in § 1.846–4. T.D. 9377, however, did not remove §§ 1.846–2T and 1.846–4T from the Code of Federal Regulations (CFR). Because these sections are obsolete, the Treasury Department and the IRS intend to remove §§ 1.846–2T and 1.846–4T from the CFR when the proposed regulations in this document are finalized.

C. Smoothing Adjustments

Section 846(d) instructs the Secretary to determine a loss payment pattern for each line of business for each determination year ''by reference to'' the historical loss payment pattern applicable to such line of business ''on the basis of'' the most recent published aggregate data from annual statements of insurance companies available on the first day of the determination year. Section 846 provides broad discretion to the Secretary to make needed adjustments when determining the loss payment patterns for each line of business. Use of loss payment patterns with negative payment amounts may produce discount factors that vary widely from year to year or discount factors that are negative or that exceed one. Commenters responding to prior requests for comments agreed that a methodology should be adopted to smooth the loss payment patterns. Proposed § 1.846–1(d)(2) provides that the Secretary may, if necessary to avoid negative payment amounts and otherwise produce a stable pattern of positive discount factors less than one, adjust the loss payment pattern for any line of business using a methodology described by the Secretary in other published guidance.

Part A of the Other Discounting Considerations section of this preamble provides additional detail on the methodology that the Treasury Department and the IRS anticipate using to adjust loss payment patterns.

Proposed Applicability Dates

The rules in proposed § 1.846–1(c) and (d) are proposed to apply to taxable years beginning after December 31, 2017.

Other Discounting Considerations

A. Smoothing Adjustments

1. Proposed Methodology

The Treasury Department and the IRS intend to describe the adjustments made to the loss payment patterns produced using annual statement payment data and the methodology used to make such adjustments under the rule set forth in proposed § 1.846–1(d)(2) for each determination year in the revenue procedure publishing discount factors for that determination year. The methodology that the Treasury Department and the IRS anticipate using to make adjustments to loss payment patterns for lines of business described in section 846(d)(3)(A)(ii) is illustrated by the following computational steps.

Step 1. Compute the yearly payment amounts and cumulative payment amounts for the accident year and the nine years following the accident year using the most recent published aggregate data from annual statements relating to loss payment patterns available on the first day of the determination year. If any of the payment amounts for the seventh, eighth, or ninth year following the accident year are negative, or if the sum of these amounts is zero (and the cumulative payment amount for the ninth year following the accident year is not 1 (one)), go to Step 2 of this illustration. Otherwise, compute the average of the payment amounts for these three years for later reference in Step 3 and use in Step 7 of this illustration, and proceed to Step 3 of this illustration.

Step 2. Average the payments for the seventh, eighth, and ninth years after the accident year. If that average is non-positive, include in the average the payment for the immediate prior year (that is, the sixth year following the accident year). If the average payment is still non-positive, continue including payments (from the fifth, fourth, etc. years after the accident year) until a positive average is produced. When a positive average payment amount is achieved, assign this payment amount to all years for which payment amounts were included in the average, and recalculate the cumulative payments for those years.

Step 3. Identify the payment for the year immediately prior to the earliest year included in the average computed in Step 1 or Step 2 of this illustration. Call that year the ''current year,'' and go to Step 4 of this illustration.

Step 4. If the payment for the current year is negative, go to Step 5 of this illustration. If it is non-negative, keep that payment amount for the current year, go to the next prior year, call it the ''current year,'' and repeat this Step 4. Repeat until all payments are non-negative, then go to Step 7 of this illustration.

Step 5. If the payment amount for the current year is negative, average that amount with the payment amounts from an even number of adjacent years, before and after the current year. Choose the minimum number of adjacent years necessary to achieve a non-negative average payment amount. This average may include amounts that were the result of a previous averaging calculation, but may not include any payment amount for a year following the sixth year after the accident year. If including payments for all prior years in the average does not achieve a non-negative average, include as many additional payments from years following the current year as necessary to achieve a non-negative average. Assign the non-negative average payment amount to all years for which payment amounts were included in the calculation of the average, and recalculate the cumulative payments for those years.

Step 6. Identify the payment for the year immediately prior to the earliest year included in the average of Step 5 of this illustration. Call it the ''current year,'' and go to Step 4 of this illustration.

Step 7. Apply the rules of section 846(d)(3)(B)(ii), using the average payment for the seventh, eighth, and ninth year after the accident year, to produce payment amounts for years following the ninth year after the accident year.

For example, using this methodology, if the tentative payment amount for the fifth year following the accident year is negative, that amount is averaged with the tentative payment amounts for the fourth and sixth years following the accident year. If that average is negative, the tentative payment amount for the third year following the accident year is included in the average. If that average is non-negative, it becomes the tentative payment amount for the third through sixth years following the accident year.

2. Comparison to Other Suggested Methods

The methods suggested by commenters responding to the requests for comments in Rev. Proc. 2003–17 and Rev. Proc. 2007–9 can be described in general terms as follows:

(1) Treat a negative estimated loss paid as zero.

(2) Average the negative estimated loss paid with estimated losses from other years to yield a positive result. For instance, commenters suggested two different methods for eliminating a negative estimated loss paid in the ninth year after the accident year: Averaging the negative estimated loss with estimated losses from as many earlier years as needed to yield a positive result, and averaging the negative estimated loss with the estimated losses for all later years.

(3) Adjust the negative estimated loss paid to equal the lesser of the value for the next younger year and the amount that brings the cumulative losses paid to 100 percent.

(4) Adjust the negative estimated loss paid using a smoothing calculation that results in younger years having a lower ''Estimated Cumulative Losses Paid'' than more mature years.

(5) Adjust the negative estimated loss paid by ensuring the percent paid in any year is no higher than the year before.

The Treasury Department and the IRS considered the methods suggested by commenters responding to prior requests for comments, but anticipate using the proposed methodology to adjust loss payment patterns for several reasons. Among other things, the proposed methodology, to the extent possible, centers the average on the negative payment year and therefore should not display a bias towards increasing or decreasing discount factors. The proposed methodology ensures that the amount used to extend the loss payment pattern past the ninth year after the accident year is positive, and preserves the average for the seventh, eighth, and ninth years after the accident year when that average is initially positive.

B. Discontinuance of Composite Method

This document proposes to eliminate the need to determine a second set of discount factors to be used with respect to accident years not separately reported on the NAIC annual statement by providing that, effective for taxable years beginning on or after the date the proposed regulations are published as final regulations in the **Federal Register**, a taxpayer that has unpaid losses relating to an accident year not separately reported on the NAIC annual statement must compute discounted unpaid losses with respect to that year using the discount factor published by the Secretary for that year for the appropriate line of business.

The methods described in Rev. Proc. 2002–74, including the composite method described in section 3.01 of Rev. Proc. 2002–74 and section V of Notice 88–100, would not be permitted methods, effective for taxable years beginning on or after the date the proposed regulations are published as final regulations in the **Federal Register**. Section V of Notice 88–100 and Rev. Proc. 2002–74 would be obsolete for taxable years beginning on or after that date. The Treasury Department and the IRS anticipate providing rules applicable to taxpayers that seek to change a method of accounting to comply with these changes. The Treasury Department and the IRS anticipate that these rules will provide that a taxpayer seeking to change to the method of accounting prescribed must follow the applicable procedures for obtaining the Commissioner's automatic consent to a change in accounting method.

C. Determination of Estimated Discounted Salvage Recoverable

In prior years, guidance published by the Commissioner in the Internal Revenue Bulletin has directed taxpayers to discount estimated salvage recoverable for each line of business using the applicable discount factors published by the Commissioner for estimated salvage recoverable. See, *e.g.,* Rev. Proc. 2018–13 and Rev. Proc. 2016–59. These discount factors were determined using the salvage recovery pattern for the line of business and the applicable interest rate for calculating unpaid losses under section 846. *Id.* The Treasury Department and the IRS anticipate providing in similar future guidance published in the Internal Revenue Bulletin that estimated salvage recoverable is to be discounted using the published discount factors applicable to unpaid losses. This treatment of estimated salvage recoverable is equivalent to netting undiscounted unpaid losses with estimates of salvage recoverable and discounting the net amount using the unpaid loss discount factors. This method is permitted under section 832(b)(5)(A) and § 1.832–4(c) and should reduce compliance complexity and costs. Separate discount factors for estimated salvage recoverable (including anticipated recoveries on account of subrogation claims) would no longer be published by the IRS. The Treasury Department and the IRS request comments on whether net payment data (loss payments less salvage recovered) and net losses incurred data (losses incurred less salvage recoverable) should be used to compute loss discount factors.

Effect on Other Documents

Section V of Notice 88–100 and Rev. Proc. 2002–74 are proposed to be obsolete for taxable years beginning on or after the date the proposed regulations are published as final regulations in the **Federal Register**.

Special Analyses

This regulation is 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. Because these regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS as prescribed in this preamble under the **ADDRESSES** heading. The Treasury Department and the IRS request comments on all aspects of the proposed rules. All comments that are submitted by the public will be available for public inspection and copying at *http://www.regulations.gov* or upon request.

A public hearing has been scheduled for December 20, 2018, at 10 a.m., in the IRS Auditorium, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than thirty (30) minutes before the hearing starts. For more information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit written or electronic comments and an outline of the topics to be discussed and the time to be devoted to each topic by December 7, 2018. Such persons should submit a signed paper original and eight (8) copies or an electronic copy. A period of ten (10) minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these regulations is Kathryn M. Sneade, Office of Associate Chief Counsel (Financial Institutions and Products), IRS. However, other personnel from the Treasury Department and the IRS participated in their development.

Statement of Availability of IRS Documents

The IRS notices and revenue procedures cited in this preamble are published in the Internal Revenue Bulletin (or Cumulative Bulletin) and are available from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402, or by visiting the IRS website at *http://www.irs.gov.*

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by removing the entry for § 1.846–2(d), removing the entry for §§ 1.846–1 through 1.846–4, and adding an entry in numerical order for § 1.846–1. The addition reads in part as follows:

Authority: 26 U.S.C. 7805 * * *

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Section 1.846–1 also issued under 26 U.S.C. 846.

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§ 1.846–0 [Removed]

■ **Par. 2.** Section 1.846–0 is removed.

■ **Par. 3.** Section 1.846–1 is amended by:

■ 1. Removing ''section 846(f)(3)'' from the first sentence of paragraph (a)(1) and adding ''section 846(e)(3)'' in its place.

■ 2. Removing ''and § 1.846–3(b) contains guidance relating to discount factors applicable to accident years prior to the 1987 accident year'' from the third sentence of paragraph (a)(1).

■ 3. Removing the last sentence of paragraph (a)(1).

■ 4. Removing paragraph (a)(2) and redesignating paragraphs (a)(3) and (4) as paragraphs (a)(2) and (3), respectively.

■ 5. In the first sentence of paragraph (b)(1), removing ''section 846(f)(6)'' and adding ''section 846(e)(6)'' in its place; and removing '', in § 1.846–2 (relating to a taxpayer's election to use its own historical loss payment pattern)''.

■ 6. Removing ''for accident years after 1987'' from the heading for paragraph (b)(3)(i).

■ 7. Removing the designation ''(A)'' and the accompanying heading ''Accident years after 1991'' after the heading of paragraph (b)(3)(ii).

■ 8. Removing paragraphs (b)(3)(ii)(B), and (b)(3)(iii) and (iv).

■ 9. Removing paragraph (b)(4) and redesignating paragraph (b)(5) as paragraph (b)(4).

■ 10. Adding paragraphs (c), (d), and (e). The additions read as follows:

§ 1.846–1 Application of discount factors.

* * * * *

(c) *Determination of annual rate.* The applicable interest rate is the annual rate determined by the Secretary for any calendar year on the basis of the corporate bond yield curve (as defined in section 430(h)(2)(D)(i), determined by substituting ''60-month period'' for ''24-month period'' therein). The annual rate for any calendar year is determined on the basis of a yield curve that reflects the average, for the most recent 60-month period ending before the beginning of the calendar year, of monthly yields on corporate bonds described in section 430(h)(2)(D)(i). The annual rate is the average of that yield curve's monthly spot rates with times to maturity of not more than seventeen and one-half years.

(d) *Determination of loss payment pattern*—(1) *In general.* Under section 846(d)(1), the loss payment pattern determined by the Secretary for each line of business is determined by reference to the historical loss payment pattern applicable to such line of business determined in accordance with the method of determination set forth in section 846(d)(2) and the computational rules prescribed in section 846(d)(3) on the basis of the annual statement data from annual statements described in section 846(d)(2)(A) and (B). However, the Secretary may adjust the loss payment pattern for any line of business as provided in paragraph (d)(2) of this section.

(2) *Smoothing adjustments.* The Secretary may adjust the loss payment pattern for any line of business using a methodology described by the Secretary in other published guidance if necessary to avoid negative payment amounts and otherwise produce a stable pattern of positive discount factors less than one.

(e) *Applicability date.* (1) Except as provided in paragraph (e)(2) of this section, this section applies to taxable years beginning after December 31, 1986.

(2) Paragraphs (c) and (d) of this section apply to taxable years beginning after December 31, 2017.

§ 1.846–2 [Removed]

■ **Par. 4.** Section 1.846–2 is removed.

§ 1.846–2T [Removed]

■ **Par. 5.** Section 1.846–2T is removed.

§ 1.846–3 [Removed]

■ **Par. 6.** Section 1.846–3 is removed.

§ 1.846–4 [Removed]

■ **Par. 7.** Section 1.846–4 is removed.

§ 1.846–4T [Removed]

■ **Par. 8.** Section 1.846–4T is removed.

Kirsten Wielobob,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2018–24367 Filed 11–5–18; 4:15 pm]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 53

[REG–107163–18]

RIN 1545–BO80

Regulations To Prescribe Return and Time for Filing for Payment of Section 4960, 4966, 4967, and 4968 Taxes and To Update the Abatement Rules for Section 4966 and 4967 Taxes

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations specifying which return to use to pay certain excise taxes and the time for filing the return. The regulations also implement the statutory addition of two excise taxes to the first-tier taxes subject to abatement. These regulations affect applicable tax-exempt

organizations and their related organizations, applicable educational institutions, sponsoring organizations that maintain certain donor advised funds, fund managers of such sponsoring organizations, and certain donors, donor advisors and persons related to a donor or donor advisor of a donor advised fund.

DATES: Written or electronic comments and requests for a public hearing must be received by December 7, 2018.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–107163–18), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–107163–18), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224 or sent electronically via the Federal eRulemaking Portal at *http://www.regulations.gov* (indicate IRS REG–107163–18).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Amber L. MacKenzie at (202) 317–4086 or Ward L. Thomas at (202) 317–6173; concerning submission of comments and request for hearing, Regina Johnson at (202) 317–6901 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed regulations amending regulations under section 6011 of the Internal Revenue Code (Code) to specify the return to accompany payment of excise taxes under sections 4960, 4966, 4967, and 4968; amending regulations under section 6071 to specify the time for filing that return; and amending regulations under section 4963 that define the first-tier taxes subject to abatement under section 4962.

These regulations affect applicable tax-exempt organizations described in section 4960(c)(1) and their related organizations described in section 4960(c)(4)(B); applicable educational institutions described in section 4968(b)(1); sponsoring organizations described in section 4966(d)(1) that maintain donor advised funds described in section 4966(d)(2); fund managers of such sponsoring organizations described in sections 4966(d)(3); and donors, donor advisors and persons related to a donor or donor advisor of a donor advised fund described in section 4967(d).

These regulations implement section 1231 of the Pension Protection Act of 2006, Public Law 109–280, 120 Stat. 780, 1094 (''PPA''), as amended by section 3(h) of the Tax Technical Corrections Act of 2007, Public Law 110–172, 121 Stat. 2473, 2475, and sections 13602 and 13701 of the Tax Cuts and Jobs Act, Public Law 115–97, 131 Stat. 2054, 2157, 2167 (2017) (''TCJA'').

The PPA added sections 4966 and 4967 to the Code. These sections impose excise taxes related to certain distributions from donor advised funds (defined in section 4966(d)(2)) maintained by organizations that are defined as sponsoring organizations in section 4966(d)(1).

Section 4966(a)(1) imposes a 20 percent excise tax on each ''taxable distribution'' from a donor advised fund, payable by the sponsoring organization of the donor advised fund. Section 4966(a)(2) imposes a separate 5 percent excise tax on the agreement of any fund manager (as defined in section 4966(d)(3)) to the making of the distribution, knowing that it is a taxable distribution. Section 4966(b)(1) states that if more than one fund manager is liable for the tax, all such managers are jointly and severally liable with respect to the taxable distribution. Section 4966(b)(2) provides that the maximum amount of tax that may be imposed on all fund managers for any one taxable distribution is $10,000.

Section 4966(c)(1) defines the term ''taxable distribution'' as any distribution from a donor advised fund: (A) To any natural person; or (B) to any other person if (i) the distribution is for any purpose other than one specified in section 170(c)(2)(B), or (ii) the sponsoring organization does not exercise expenditure responsibility in accordance with section 4945(h) with respect to such distribution. Section 4966(c)(2) excepts from the definition of taxable distribution: (A) Distributions to any organization described in section 170(b)(1)(A), other than a disqualified supporting organization (as defined in section 4966(d)(4)); (B) distributions to the sponsoring organization of such donor advised fund; and (C) distributions to any other donor advised fund.

Section 4967(a)(1) imposes a tax on the advice of a donor, donor advisor, or related person, described in subsection (d), if a distribution from a donor advised fund results in such person (or any other person described in subsection (d)) receiving, directly or indirectly, a more than incidental benefit (a ''prohibited benefit''). The tax, which is equal to 125 percent of the amount of the prohibited benefit, is paid by any person described in subsection (d) who advises as to a distribution or who receives a prohibited benefit as a result of the distribution. Section 4967(c)(1) provides that if more than one person is liable for the tax under section 4967(a)(1), then all such persons are jointly and severally liable for the tax.

Section 4967(a)(2) imposes a tax on a fund manager (defined in section 4966(d)(3)) who agrees to the making of a distribution described in section 4967(a)(1), knowing that it would confer a more than incidental benefit on a donor, donor advisor, or related person. Section 4967(a)(2) states that the tax is equal to 10 percent of the amount of the prohibited benefit. Section 4967(c)(1) provides that if more than one fund manager is liable for the tax, all such fund managers are jointly and severally liable. Section 4967(c)(2) provides that the maximum amount of tax under section 4967(a)(2) on all fund managers for any one prohibited benefit transaction is $10,000. Section 4967(b) provides that no tax is imposed under section 4967 if a tax has been imposed with respect to the distribution under section 4958 (taxing excess benefit transactions).

In 2006, the PPA added section 4966 and section 4967 taxes to the definitions of ''first tier tax'' in section 4963(a) and ''taxable event'' in section 4963(c). In 2007, section 4962(b) was amended by the Tax Technical Corrections Act of 2007, Public Law 110–172, sec. 3(h), 121 Stat. 2473, 2475, to add subchapter G of chapter 42 (*i.e.,* section 4966 and section 4967 taxes) to the definition of ''qualified first tier tax'' for purposes of tax abatement. Thus under the Code, section 4966 and section 4967 taxes are subject to abatement under the generally applicable rules. Treas. Reg. § 53.4963–1 sets forth definitions with respect to abatement of taxes.

The TCJA added sections 4960 and 4968 to the Code. Section 4960 imposes an excise tax equal to the product of the rate of tax under section 11 and the sum of (1) so much of the remuneration paid (other than any excess parachute payment) by an applicable tax-exempt organization for the taxable year with respect to employment of any covered employee in excess of $1,000,000, plus (2) any excess parachute payment paid by such an organization to any covered employee. Section 4960(c)(4)(A) provides that remuneration of a covered employee by an applicable tax-exempt organization includes any remuneration paid with respect to employment of such employee by any related person or governmental entity. Section 4960(c)(4)(C) provides that when remuneration from more than one

employer is taken into account in determining the tax imposed by subsection (a), each such employer is liable for a pro rata share of the tax imposed by subsection (a) based on the ratio of the amount of remuneration paid by such employer with respect to such employee to the amount of remuneration paid by all such employers to such employee. Separately, section 4968 imposes an excise tax on each applicable educational institution based on the net investment income of such institution (including certain income of related organizations) for the taxable year.

Section 6011(a) generally provides that when required by regulations prescribed by the Secretary, any person liable for any tax imposed by the Code shall make a return or statement according to the forms and regulations prescribed by the Secretary. Section 6071 generally provides that when not otherwise provided for under the Code, return filing dates are prescribed by regulation. Treas. Reg. §§ 53.6011–1 and 53.6071–1 require persons subject to certain enumerated excise taxes under Chapter 42 of the Code to file a Form 4720 to accompany payment of those excise taxes and provide the time for filing the return. (Form 4720 is denominated ''Return of Certain Excise Taxes Under Chapters 41 and 42 of the Internal Revenue Code.'') Sections 4960, 4966, 4967, and 4968 were added to Chapter 42 of the Code, but are not enumerated in Treas. Reg. §§ 53.6011–1 and 53.6071–1.

Explanation of Provisions

1. Section 4962 Abatement

These proposed regulations add section 4966 and section 4967 taxes to the definitions of ''first tier tax'' and ''taxable event'' in Treas. Reg. § 53.4963–1. Qualified first tier taxes are subject to abatement under section 4962.

2. Requirement To File a Form 4720

These proposed regulations amend Treas. Reg. § 53.6011–1(b) to provide that persons (including governmental entities) that are liable for section 4960, 4966, 4967, or 4968 excise taxes are required to file a return on Form 4720.

3. Deadline for Filing a Form 4720

Under § 53.6071–1(i) of these proposed regulations, a person required to file a Form 4720 to report an excise tax under section 4960, 4966, 4967, or 4968 must file a Form 4720 by the 15th day of the fifth month after the end of the person's taxable year during which the excise tax liability was incurred. Thus, for example, an organization reporting on a calendar-year basis that incurred excise tax during the calendar year ending December 31, 2018, would be required to file a Form 4720 and pay the tax due by May 15, 2019.

4. Effective/Applicability Date

These regulations are proposed to apply as of the date of publication of the final rule in the **Federal Register**.

Special Analyses

This regulation is not subject to review under section 6(b) of Executive Order 12866 pursuant to the Memorandum of Agreement (April 11, 2018) between the Department of the Treasury and the Office of Management and Budget regarding review of tax regulations. It is hereby certified that the collection of information in these regulations will not have a significant economic impact on a substantial number of small entities. This rule merely provides guidance as to the timing and filing of Form 4720 for persons liable for the specified excise taxes and who have a statutory filing obligation. Completing the applicable portion of the Form 4720 imposes little incremental burden in time or expense as compared to any other filing method. In addition, a person may already be required to file the Form 4720 under the existing final regulations in §§ 53.6011–1 and 53.6071–1 if it is liable for another excise tax for which filing of the Form is required. Therefore, a regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Code, this regulation will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small entities.

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. All comments submitted will be made available at *www.regulations.gov* or upon request.

A public hearing will 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 authors of these regulations are Amber L. MacKenzie and Ward L. Thomas, Office of Associate Chief Counsel (Tax Exempt and Government Entities). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 53

Excise taxes, Foundations, Investments, Lobbying, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 53 is proposed to be amended as follows:

PART 53—FOUNDATION AND SIMILAR EXCISE TAXES

■ **Paragraph 1.** The authority citation for part 53 continues to read, in part, as follows:

Authority: 26 U.S.C. 7805 * * *

§ 53.4963–1 [Amended]

■ **Par. 2.** Section 53.4963–1 is amended as follows:

■ 1. Paragraph (a) is amended by removing the language ''4958, 4971'' and adding ''4958, 4966, 4967, 4971'' in its place.

■ 2. Paragraph (c) is amended by removing the language ''4958, 4971'' and adding ''4958, 4966, 4967, 4971'' in its place.

■ **Par. 3.** Section 53.6011–1 is amended by:

■ 1. Revising the first sentence of paragraph (b).

■ 2. Removing from the third sentence of paragraph (b) the language ''4958(a), or 4965(a),'' and adding ''4958(a), 4960(a), 4965(a), 4966(a), or 4967(a),'' in its place.

The revision reads as follows:

§ 53.6011–1 General requirement of return, statement or list.

* * * * *

(b) Every person (including a governmental entity) liable for tax imposed by sections 4941(a), 4942(a), 4943(a), 4944(a), 4945(a), 4955(a), 4958(a), 4959, 4960(a), 4965(a), 4966(a), 4967(a), or 4968(a), and every private foundation and every trust described in section 4947(a)(2) which has engaged in an act of self-dealing (as defined in section 4941(d)) (other than an act giving rise to no tax under section 4941(a)) shall file an annual return on Form 4720 and shall include therein the information required by such form and

the instructions issued with respect thereto. * * *

* * * * *

§ 53.6071–1 [Amended]

■ **Par. 4.** Section 53.6071–1 is amended by:

■ 1. Redesignating paragraph (i) as paragraph (j).

■ 2. Adding new paragraphs (i) and (j)(3).

The additions read as follows:

§ 53.6071–1 Time for filing returns.

* * * * *

(i) *Taxes under section 4960, 4966, 4967, or 4968.* A person (including a governmental entity) required by § 53.6011–1(b) to file a return for a tax imposed by section 4960(a), 4966(a), 4967(a), or 4968(a) in a taxable year must file the Form 4720 on or before the 15th day of the fifth month after the end of the person's taxable year (or, if the person has not established a taxable year for Federal income tax purposes, the person's annual accounting period).

(j) * * *

(3) Paragraph (i) of this section applies on and after the date of publication of the Treasury decision adopting these rules as final regulations in the **Federal Register**.

Kirsten Wielobob,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2018–24285 Filed 11–5–18; 4:15 pm]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2018–0606; FRL–9986–09–Region 8]

Approval and Promulgation of Air Quality Implementation Plans; Wyoming; Revisions to Regional Haze State Implementation Plan; Revisions to Regional Haze Federal Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of comment period.

SUMMARY: On October 11, 2018, the Environmental Protection Agency (EPA) published in the **Federal Register** a proposed rule pertaining to revisions to the regional haze State Implementation Plan (SIP) and Federal Implementation Plan (FIP) for Wyoming and requested comments by November 13, 2018. The EPA is extending the comment period for the proposed rule until December 10, 2018.

DATES: Written comments must be received on or before December 10, 2018.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OAR–2018–0606, to the Federal Rulemaking Portal: *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *www.regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www.epa.gov/dockets/commenting-epa-dockets.*

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129. The EPA requests that, if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Jaslyn Dobrahner, Air Program, EPA, Region 8, Mailcode 8P–AR, 1595 Wynkoop Street, Denver, Colorado, 80202–1129, (303) 312–6252, *dobrahner.jaslyn@epa.gov.*

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

On October 11, 2018 (83 FR 51403), we published in the **Federal Register** a proposed rule pertaining to revisions to the regional haze SIP and FIP for Wyoming and requested comment by November 13, 2018. Specifically, the SIP revisions modify the sulfur dioxide (SO_2) emissions reporting requirements for Laramie River Station Units 1 and 2. The revisions to the FIP revise the nitrogen oxides (NO_X) best available retrofit technology (BART) emission limits for Laramie River Units 1—3 and establish a SO_2 emission limit averaged annually across both Laramie River Station Units 1 and 2.

We received a request from several organizations to extend the comment period and, in response, we are extending the comment period to December 10, 2018.[1]

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Sulfur oxides.

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

Dated: November 2, 2018.

Douglas Benevento,

Regional Administrator, Region 8.

[FR Doc. 2018–24366 Filed 11–6–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2018–0607; FRL–9986–03–Region 8]

Approval and Promulgation of Air Quality Implementation Plans; Wyoming; Revisions to Regional Haze State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a source-specific revision to the Wyoming State Implementation Plan (SIP) that provides an alternative to Best Available Retrofit Technology (BART) for Unit 3 at the Naughton Power Plant (''the SIP revision'') that is owned and operated by PacifiCorp. The EPA proposes to find that the BART alternative for Naughton Unit 3 would provide greater reasonable progress toward natural visibility

[1] A copy of the letter requesting the extension appears in the docket for this action.

conditions than BART in accordance with the requirements of section 110 of the Clean Air Act (CAA) and the EPA's Regional Haze Rule (RHR). The SIP revision was submitted by the State of Wyoming on November 28, 2017.

The SIP revision for Naughton Unit 3 was submitted along with Wyoming's 5-year progress report, which is required under the Regional Haze Rule. However, the EPA is not proposing to act on the 5-year progress report in this rulemaking.

DATES: Written comments must be received on or before December 7, 2018.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OAR–2018–0607, to the Federal Rulemaking Portal: *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *www.regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Aaron Worstell, Air Program, EPA, Region 8, Mailcode 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129, (303) 312–6073, *worstell.aaron@epa.gov.*

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

Table of Contents

I. General Information
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I. General Information

A. Definitions

For the purpose of this document, we are giving meaning to certain words or acronyms as follows:

- The words *Wyoming* and *State* mean the State of Wyoming.
- The word *Naughton* refers to the Naughton Plant.
- The initials *BART* mean or refer to Best Available Retrofit Technology.
- The term *Class I area* refers to a mandatory Class I federal area.[1]
- The initials *CAA* mean or refer to the Clean Air Act.
- The initials *CBI* mean or refer to Confidential Business Information.
- The initials *EGU* mean or refer to Electric Generating Unit.
- The words *EPA, we, us,* or *our* mean or refer to the United States Environmental Protection Agency.
- The initials *FGR* mean flue gas recirculation.
- The initials *FIP* mean or refer to Federal Implementation Plan.
- The initials *LNB* mean or refer to low-NO_X burners.
- The initials *MMBtu* mean or refer to million British thermal units.
- The initials *NAAQS* mean or refer to National Ambient Air Quality Standards.
- The initials NO_X mean or refer to nitrogen oxides.
- The initials *OFA* mean or refer to over fire air.
- The initials *PM* mean or refer to Particulate Matter, which is inclusive of PM_{10} (particulate matter less than or equal to 10 micrometers) and $PM_{2.5}$ (particulate matter less than or equal to 2.5 micrometers).
- The initials *SCR* mean or refer to Selective Catalytic Reduction.
- The initials *SIP* mean or refer to State Implementation Plan.
- The initials SO_2 mean or refer to Sulfur Dioxide.

B. Docket

All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129. The EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding federal holidays.

II. Background

A. Requirements of the Clean Air Act and the EPA's Regional Haze Rule

In section 169A of the 1977 Amendments to the CAA, Congress created a program for protecting visibility in the nation's national parks and wilderness areas. This section of the CAA establishes ''as a national goal the prevention of any future, and the remedying of any existing, impairment of visibility in mandatory Class I Federal areas which impairment results from manmade air pollution.'' [2]

The EPA promulgated a rule to address regional haze on July 1, 1999.[3] The RHR revised the existing visibility regulations [4] to integrate provisions addressing regional haze and established a comprehensive visibility protection program for Class I areas. The requirements for regional haze, found at 40 CFR 51.308 and 40 CFR 51.309, are included in the EPA's visibility protection regulations at 40 CFR 51.300 through 40 CFR 51.309. The EPA revised the RHR on January 10, 2017.[5]

The CAA requires each state to develop a SIP to meet various air quality

[1] Although states and tribes may designate as Class I additional areas which they consider to have visibility as an important value, the requirements of the visibility program set forth in section 169A of the CAA apply only to ''mandatory Class I Federal areas.''

[2] 42 U.S.C. 7491(a). Areas designated as mandatory Class I Federal areas consist of national parks exceeding 6,000 acres, wilderness areas and national memorial parks exceeding 5,000 acres, and all international parks that were in existence on August 7, 1977. 42 U.S.C. 7472(a). In accordance with section 169A of the CAA, the EPA, in consultation with the Department of Interior, promulgated a list of 156 areas where visibility is identified as an important value. 44 FR 69122 (November 30, 1979). The extent of a mandatory Class I area includes subsequent changes in boundaries, such as park expansions. 42 U.S.C. 7472(a). Although states and tribes may designate as Class I additional areas whose visibility they consider to be an important value, the requirements of the visibility program set forth in section 169A of the CAA apply only to ''mandatory Class I Federal areas.'' Each mandatory Class I Federal area is the responsibility of a ''Federal Land Manager.'' 42 U.S.C. 7602(i). When we use the term ''Class I area'' in this section, we mean a ''mandatory Class I Federal area.''

[3] 64 FR 35714, 35714 (July 1, 1999) (codified at 40 CFR part 51, subpart P).

[4] The EPA had previously promulgated regulations to address visibility impairment in Class I areas that is ''reasonably attributable'' to a single source or small group of sources, *i.e.,* reasonably attributable visibility impairment (RAVI). 45 FR 80084, 80084 (December 2, 1980).

[5] 82 FR 3078 (January 10, 2017).

requirements, including protection of visibility.[6] Regional haze SIPs must assure reasonable progress toward the national goal of achieving natural visibility conditions in Class I areas. A state must submit its SIP and SIP revisions to the EPA for approval. Once approved, a SIP is enforceable by the EPA and citizens under the CAA; that is, the SIP is federally enforceable. If a state elects not to make a required SIP submittal, fails to make a required SIP submittal or if we find that a state's required submittal is incomplete or not approvable, then we must promulgate a Federal Implementation Plan (FIP) to fill this regulatory gap.[7]

B. Best Available Retrofit Technology (BART)

Section 169A of the CAA directs states as part of their SIPs to evaluate the use of retrofit controls at certain larger, often uncontrolled, older stationary sources in order to address visibility impacts from these sources. Specifically, section 169A(b)(2)(A) of the CAA requires states' implementation plans to contain such measures as may be necessary to make reasonable progress toward the natural visibility goal, including a requirement that certain categories of existing major stationary sources built between 1962 and 1977 procure, install, and operate the ''Best Available Retrofit Technology'' as determined by the states through their SIPs. Under the RHR, states (or the EPA) are directed to conduct BART determinations for such ''BART-eligible'' sources that may reasonably be anticipated to cause or contribute to any visibility impairment in a Class I area.[8] Rather than requiring source-specific BART controls, states also have the flexibility to adopt an emissions trading program or other alternative program as long as the alternative provides greater reasonable progress towards improving visibility than BART.[9]

C. BART Alternatives

An alternative program to BART must meet requirements under 40 CFR 51.308(e)(2) and (e)(3). These requirements for alternative programs relate to the ''better-than-BART'' test and fundamental elements of any alternative program.

In order to demonstrate that the alternative program achieves greater reasonable progress than source-specific BART, a state must demonstrate that its SIP meets the requirements in 40 CFR 51.308(e)(2)(i) through (v). The state or the EPA must conduct an analysis of the best system of continuous emission control technology available and the associated reductions for each source subject to BART covered by the alternative program, termed a ''BART benchmark.'' Where the alternative program has been designed to meet requirements other than BART, simplifying assumptions may be used to establish a BART benchmark.

Pursuant to 40 CFR 51.308(e)(2)(i)(E), the state or the EPA, must also provide a determination that the alternative program achieves greater reasonable progress than BART under 40 CFR 51.308(e)(3) or otherwise based on the clear weight of evidence. 40 CFR 51.308(e)(3), in turn, provides specific tests applicable under specific circumstances for determining whether the alternative achieves greater reasonable progress than BART. If the distribution of emissions for the alternative program is not substantially different than for BART, and the alternative program results in greater emissions reductions, then the alternative program may be deemed to achieve greater reasonable progress. If the distribution of emissions is significantly different, the differences in visibility between BART and the alternative program, must be determined by conducting dispersion modeling for each impacted Class I area for the best and worst 20 percent of days. This modeling demonstrates ''greater reasonable progress'' if both of the two following criteria are met: (1) Visibility does not decline in any Class I area; and (2) there is overall improvement in visibility when comparing the average differences between BART and the alternative program across all the affected Class I areas. Alternatively, pursuant to 40 CFR 51.308(e)(2), states may show that the alternative achieves greater reasonable progress than the BART benchmark ''based on the clear weight of evidence'' determinations. Specific RHR requirements for alternative programs are discussed in more detail in Section III.[10]

Generally, a SIP addressing regional haze must include emission limits and compliance schedules for each source subject to BART. In addition to the RHR's requirements, general SIP requirements mandate that the SIP include all regulatory requirements related to monitoring, recordkeeping, and reporting for the alternative's enforceable requirements. See CAA section 110(a); 40 CFR part 51, subpart K.

D. Reasonable Progress Requirements

In addition to BART requirements, as mentioned previously, each regional haze SIP must contain measures as necessary to make reasonable progress towards the national visibility goal. Finally, the SIP must establish reasonable progress goals (RPGs) for each Class I area within the state for the plan implementation period (or ''planning period''), based on the measures included in the long-term strategy.[11] If an RPG provides for a slower rate of improvement in visibility than the rate under which the national goal of no anthropogenic visibility impact would be attained by 2064, the SIP must demonstrate, based on the four reasonable progress factors, why that faster rate is not reasonable and the slower rate provided for by the SIP's state-specific RPG is reasonable.[12]

E. Consultation With Federal Land Managers (FLMs)

The RHR requires that a state consult with FLMs before adopting and submitting a required SIP or SIP revision.[13] Further, the EPA, or state when considering a SIP revision, must include in its proposal a description of how it addressed any comments provided by the FLMs.

F. Requirements for Regional Haze SIPs Submitted Under 40 CFR 51.309

The EPA's RHR provides two paths to address regional haze. One is 40 CFR 51.308, requiring states to perform individual point source BART determinations and evaluate the need for other control strategies. The other method for addressing regional haze is through 40 CFR 51.309, and is an option for nine states termed the ''Transport Region States,'' which include: Arizona, California, Colorado, Idaho, Nevada, New Mexico, Oregon, Utah and Wyoming. By meeting the requirements under 40 CFR 51.309, a Transport Region State can be deemed to be making reasonable progress toward the

[6] 42 U.S.C. 7410(a), 7491, and 7492(a); CAA sections 110(a), 169A, and 169B.

[7] 42 U.S.C. 7410(c)(1).

[8] 40 CFR 51.308(e). The EPA designed the Guidelines for BART Determinations Under the Regional Haze Rule (Guidelines) 40 CFR Appendix Y to part 51 ''to help States and others (1) identify those sources that must comply with the BART requirement, and (2) determine the level of control technology that represents BART for each source.'' Guidelines, Section I.A. Section II of the Guidelines describes the four steps to identify BART sources, and Section III explains how to identify BART sources (*i.e.,* sources that are ''subject to BART'').

[9] 40 CFR 51.308(e)(2). *WildEarth Guardians* v. *EPA,* 770 F.3d 919 (10th Cir. 2014).

[10] 40 CFR 51.308(e)(2).

[11] 40 CFR 51.308(d).

[12] 40 CFR 51.308(d)(1)(ii).

[13] 40 CFR 51.308(i).

national goal of achieving natural visibility conditions for the 16 Class I areas on the Colorado Plateau.[14]

Section 309 requires those Transport Region States that choose to participate to adopt regional haze strategies that are based on recommendations from the Grand Canyon Visibility Transport Commission (GCVTC) for protecting the 16 Class I areas on the Colorado Plateau. The purpose of the GCVTC was to assess information about the adverse impacts on visibility in and around the 16 Class I areas on the Colorado Plateau and to provide policy recommendations to the EPA to address such impacts. The GCVTC determined that all Transport Region States could potentially impact the Class I areas on the Colorado Plateau. The GCVTC submitted a report to the EPA in 1996 for protecting visibility for the Class I areas on the Colorado Plateau, and the EPA codified these recommendations as an option available to states as part of the RHR.[15]

The EPA determined that the GCVTC strategies would provide for reasonable progress in mitigating regional haze if supplemented by an annex containing quantitative emission reduction milestones and provisions for a trading program or other alternative measure.[16] In September 2000, the Western Regional Air Partnership (WRAP), which is the successor organization to the GCVTC, submitted an annex to the EPA. The annex contained SO_2 emissions reduction milestones and detailed provisions of a backstop trading program to be implemented automatically if voluntary measures failed to achieve the SO_2 milestones. The EPA codified the annex on June 5, 2003 at 40 CFR 51.309(h).[17]

Five western states, including Wyoming, submitted implementation plans under section 309 in 2003.[18] The EPA was challenged by the Center for Energy and Economic Development (CEED) on the validity of the annex provisions. In *CEED* v. *EPA,* the D.C. Circuit Court of Appeals vacated the EPA approval of the WRAP annex.[19] In response to the court's decision, the EPA vacated the annex requirements adopted under 40 CFR 51.309(h), but left in place the stationary source requirements in 40 CFR 51.309(d)(4).[20] The requirements under 40 CFR 51.309(d)(4) contain general requirements pertaining to stationary sources and market trading, and allow states to adopt alternatives to the point source application of BART.

Thus, rather than requiring source-specific BART controls as explained previously in Section II.B., states have the flexibility to adopt an emissions trading program or other alternative program if the alternative provides greater reasonable progress than would be achieved by the application of BART pursuant to 40 CFR 51.308(e)(2). Under 40 CFR 51.309, states can satisfy the SO_2 BART requirements by adopting SO_2 emissions milestones and a backstop trading program. Under this approach, states must establish declining SO_2 emissions milestones for each year of the program through 2018. The milestones must be consistent with the GCVTC's goal of 50 to 70 percent reduction in SO_2 emissions by 2040. The backstop trading program would be implemented if a milestone is exceeded and the program is triggered.[21]

G. History of NO_X and PM BART Determinations for Naughton Unit 3

1. PacifiCorp Naughton Unit 3

The PacifiCorp Naughton Power Plant, located in Lincoln County, Wyoming, is comprised of three pulverized coal-fired units with a total net generating capacity of 700 megawatts (MW). All three boilers are tangentially fired and burn subbituminous coal. Naughton Unit 3 generates a nominal 330 MW and commenced operation in 1971. Naughton Unit 3 is currently equipped with low-NO_X burners (LNB) and overfire air (OFA) to control NO_X, sodium-based wet flue gas desulfurization to control SO_2, and an electrostatic precipitator and flue gas conditioning to control PM.[22] All three units are within the statutory definition of BART-eligible units, and were determined to be subject to BART by Wyoming in its 2011 Regional Haze SIP (discussed below).

2. 2011 Wyoming Regional Haze SIP

Wyoming submitted its SIP revision to the EPA on January 12, 2011, to address the requirements of section 309(g) of the RHR. On June 10, 2013, the EPA proposed to approve portions of the Wyoming Regional Haze SIP, including the State's NO_X and PM BART determinations for Naughton Unit 3.[23] Specifically, we proposed to approve: (1) Wyoming's NO_X BART emission limit of 0.07 lb/MMBtu (30-day rolling average), reflecting the existing LNBs plus OFA and the installation of selective catalytic reduction (SCR), and (2) Wyoming's PM BART emission limit of 0.015 lb/MMBtu, reflecting installation of a new full-scale fabric filter.[24] [25] We also proposed to approve the associated compliance dates that required that PacifiCorp comply with the NO_X and PM BART emission limits within 5 years from the effective date of our final rule (that is, by March 4, 2019).

During the public comment period for the EPA's proposed rule, PacifiCorp submitted comments indicating that, in place of installing SCR on Naughton Unit 3 to meet the NO_X BART emission limit of 0.07 lb/MMbtu (30-day rolling average), it planned to convert the unit to natural gas firing by the end of 2018. On July 5, 2013, at the request of PacifiCorp, Wyoming issued air quality permit MD–14506[26] to modify the Naughton Power Plant by converting Unit 3 to fire natural gas. In a meeting with PacifiCorp held on October 31, 2013, the company clarified to the EPA that its comments were a request that the EPA establish emission limits reflecting conversion to natural gas through a FIP. In response to PacifiCorp's request, in our final rule the EPA indicated that while we tentatively supported PacifiCorp's planned conversion of Naughton Unit 3 to burn natural gas, we were unable to impose the associated emission limits

[14] The Colorado Plateau is a high, semi-arid tableland in southeast Utah, northern Arizona, northwest New Mexico, and western Colorado. The 16 mandatory Class I areas are: Grand Canyon National Park, Mount Baldy Wilderness, Petrified Forest National Park, Sycamore Canyon Wilderness, Black Canyon of the Gunnison National Park Wilderness, Flat Tops Wilderness, Maroon Bells Wilderness, Mesa Verde National Park, Weminuche Wilderness, West Elk Wilderness, San Pedro Park Wilderness, Arches National Park, Bryce Canyon National Park, Canyonlands National Park, Capital Reef National Park and Zion National Park.

[15] 64 FR 35714, 35749 (July 1, 1999).

[16] 64 FR 35714, 35749, 35756 (July 1, 1999).

[17] 68 FR 33764, 33767 (June 5, 2003).

[18] Five states—Arizona, New Mexico, Oregon, Utah and Wyoming—and Albuquerque-Bernalillo County, New Mexico, initially exercised this option by submitting plans to the EPA in December 2003. Oregon elected to cease participation in 2006, and Arizona elected to cease participation in 2010.

[19] *Ctr. for Energy & Econ. Dev.* v. *EPA,* 398 F.3d 653, 654 (D.C. Cir. 2005).

[20] 71 FR 60612 (October 13, 2006).

[21] 40 CFR 51.309(d)(4)(v).

[22] PM includes both PM_{10} and $PM_{2.5}$. See *Definitions.*

[23] 78 FR 34738 (June 10, 2013); 78 FR 34760 (June 10, 2013).

[24] The BART requirement is met through compliance with the specified emission limit, and may be achieved through measures other than the referenced control technology.

[25] Wyoming's 2011 SIP also contained NO_X emission limits of 259 lb/hr (30-day rolling average) and 1,134 tons/year, and PM emission limits of 56 lb/hr and 243 tons/year. These hourly and annual limits are the product of the respective lb/MMBtu emission limit and the design heat input for an hour or year. However, EPA's SIP approval only included the lb/MMBtu emission limits.

[26] The emission limits and other requirements associated with the BART alternative were superseded by subsequent permits.

through a FIP.[27] We found no basis to disapprove Wyoming's SIP requirement for Naughton Unit 3 and were therefore obligated to approve them. Accordingly, in a final rule dated January 30, 2014, the EPA approved Wyoming's NO_X and PM emission limits for Naughton Unit 3 that reflected the installation of SCR and a new full-scale fabric filter baghouse.[28] At the time, we acknowledged that Wyoming intended to submit a revision to its regional haze SIP for Naughton Unit 3 that would reflect conversion to natural gas. We indicated that we would act on the SIP revision in an expedited timeframe.

Though we approved Wyoming's NO_X and PM BART[29] emission limits for Naughton Unit 3, we disapproved the monitoring, record-keeping, and reporting requirements in the SIP for all BART sources, and promulgated federal requirements in their place for the reasons stated in our January 30, 2014 final rule and June 10, 2013 proposed rule.[30]

3. Wyoming Regional Haze SIP Revision for Naughton Unit 3

On November 28, 2017, Wyoming submitted a revision to the Wyoming Regional Haze SIP (''SIP revision'') that provides an alternative to NO_X and PM BART for Naughton Unit 3 (''Naughton Unit 3 BART Alternative''). This SIP revision is in Appendix B to Wyoming's 5-year progress report, titled *Alternative to BART for NO_X and PM for PacifiCorp Naughton Unit 3,* and includes five air quality permits for the Naughton Power Plant.[31] The SIP revision is the subject of this proposal.

III. The SIP Revision for Naughton Unit 3

A. Summary of the SIP Revision

The November 28, 2017 SIP revision requires that PacifiCorp cease firing coal at Naughton Unit 3 no later than January 30, 2019.[32] The SIP revision establishes NO_X and PM emission limits that reflect firing natural gas, installation of new low-NO_X gas burners along with a boiler flue gas recirculation system (FGR) for NO_X control, and a limit on annual heat input of 12,964,800 MMBtu/year (based on 12-month rolling average of hourly heat input values[33]) equal to 40 percent of the maximum design heat input when firing coal.[34] Collectively, these control measures will significantly reduce NO_X and PM emissions. The SIP revision includes the associated compliance deadlines, monitoring, recordkeeping and reporting requirements. Finally, the SIP revision includes a determination that the Naughton Unit 3 BART alternative is ''better than BART'' based on a demonstration that it fulfills the requirements of 40 CFR 51.308(e)(2) for a BART alternative. More information regarding Wyoming's analysis of the BART alternative is set forth below, along with the EPA's evaluation of the analysis.

B. The EPA's Evaluation of the SIP Revision

The RHR establishes the requirements for BART alternatives. Three of the requirements are of relevance to our evaluation of the Naughton Unit 3 BART alternative. We evaluate the proposed alternative to the NO_X and PM BART requirements in the SIP revision with respect to each of these following elements:

- A demonstration that the emissions trading program or other alternative measure will achieve greater reasonable progress than would have resulted from the installation and operation of BART at all sources subject to BART in the state and covered by the alternative program.[35]
- A requirement that all necessary emissions reductions take place during the period of the first long-term strategy for regional haze.[36]
- A demonstration that the emissions reductions resulting from the alternative measure will be surplus to those reductions resulting from the measures adopted to meet requirements of the CAA as of the baseline date of the SIP.[37]

Our evaluation draws from Appendix B of the SIP submittal: *Alternative to BART for NO_X and PM for PacifiCorp Naughton Unit 3.*

1. Demonstration That the Alternative Measure Will Achieve Greater Reasonable Progress

Pursuant to 40 CFR 51.308(e)(2)(i), a state must demonstrate that the alternative measure will achieve greater reasonable progress than would have resulted from the installation and operation of BART at all sources subject to BART in the state and covered by the alternative program. For a source-specific BART alternative, the critical elements of this demonstration are:

- A list of all BART-eligible sources within the state;
- A list of all BART-eligible sources and all BART source categories covered by the alternative program;
- An analysis of BART and associated emission reductions;
- An analysis of projected emissions reductions achievable through the BART alternative; and
- A determination that the alternative achieves greater reasonable progress than would be achieved through the installation and operation of BART.

We summarize the SIP revision with respect to each of these elements and provide our evaluation in the proceeding sections.

- A List of All BART-Eligible Sources Within the State

Table 1 shows a list of all BART-eligible sources in the State of Wyoming.

TABLE 1—WYOMING BART-ELIGIBLE SOURCES

Company	Facility
PacifiCorp	Jim Bridger.
Basin Electric	Laramie River.
PacifiCorp	Dave Johnston.
PacifiCorp	Naughton.
PacifiCorp	Wyodak.
FMC	Westvaco.
General Chemical	Green River.
Black Hills	Neil Simpson 1.
Sinclair	Sinclair Refinery.
Sinclair	Casper Refinery.
FMC	Granger.
Dyno Nobel	Dyno Nobel.
OCI Wyoming	OCI Wyoming.
P4 Production	P4 Production.

- A List of All BART-Eligible Sources and All BART Source Categories Covered by the BART Alternative Program

Table 2 shows a list of all the BART-eligible sources covered by the BART

[27] 79 FR 5045 (January 30, 2014).

[28] 79 FR 5220, 5221 (January 30, 2014).

[29] Separately, under 40 CFR 51.309, Wyoming submitted a SIP satisfying BART requirements for SO_2 by adopting SO_2 emission milestones and a backstop trading program. We finalized approval of Wyoming's 309 program for SO_2 on December 12, 2012. 77 FR 73926 (December 12, 2012).

[30] 79 FR 5221, 5222 (January 30, 2014).

[31] Appendix B to the SIP contains the State's better than BART demonstration (PDF pp. 184–193) and five air quality permits issued by the State of Wyoming for the Naughton Power Plant. Permit Nos. P0021110 (March 7, 2017), PDF pp. 194–198; P0021918 (November 18, 2016), PDF pp. 199–200; MD–15946 (March 20, 2014), PDF pp. 201–205; MD–14506 (July 5, 2013), PDF pp. 206–215; and MD–6042A2 (March 7, 2012), PDF pp. 216–220.

[32] The coal pulverizers will be removed from service.

[33] The EPA understands the ''12-month rolling average heat input of hourly heat input values'' to mean that the hourly heat input values are summed for each month, and that these monthly values are then averaged on a rolling 12-month basis.

[34] The State's SIP explains that ''. . . PacifiCorp will no longer operate the unit as a base-load Electric Generating Unit (EGU). Instead it will be operated as a peaking unit with a maximum annual heat input factor of 40%, or 12,964,800 MMBtu based on 12-month rolling average of hourly heat input values.'' SIP Appendix B at p. 3.

[35] 40 CFR 51.308(e)(2)(i).

[36] 40 CFR 51.308(e)(2)(iii).

[37] 40 CFR 51.308(e)(2)(iv).

alternative program along with the BART source category.

TABLE 2—WYOMING SUBJECT-TO-BART SOURCES COVERED BY THE ALTERNATIVE

Company	Facility	Subject-to-BART units	Source category
PacifiCorp	Naughton Power Plant	Unit 3	Electrical generating units.

• Analysis of BART and Associated Emission Reductions

Pursuant to 40 CFR 51.308(e)(2)(i)(C), the SIP must include an analysis of BART and associated emission reductions at Naughton Unit 3. As noted above, Wyoming's BART analyses and determinations for Naughton Unit 3 were included in the 2011 Wyoming Regional Haze SIP. The EPA approved Wyoming's NO_X BART emission limit of 0.07 lb/MMBtu (30-day rolling average) for Naughton Unit 3 that reflected existing LNBs plus OFA with the installation of SCR.[38] In addition to the NO_X BART emission limit of 0.07 lb/MMBtu approved by the EPA, the 2011 SIP included NO_X emission limits of 259 lb/hr (30-day rolling average) and 1,134 tons/year. We also approved Wyoming's PM BART emission limit of 0.015 lb/that reflected installation of a new full-scale fabric filter.[39] In addition to the PM BART emission limit of 0.015 lb/MMBtu approved by the EPA, the 2011 SIP included PM emission limits of 56 lb/hr and 243 tons/year. These BART determinations are shown in the SIP revision, and are summarized in Table 3 below.

TABLE 3—SUMMARY OF WYOMING'S NO_X AND PM BART DETERMINATIONS FOR NAUGHTON UNIT 3

Permitted controls	NO_X	PM
SCR, New Fabric Filter Baghouse	0.07 lb/MMBtu (30-day rolling) 259 lb/hr (30-day rolling) 1,134 tons/yr	0.015 lb/MMBtu. 56 lb/hr. 243 tons/yr.

We propose to find that Wyoming has met the requirement for an analysis of BART and associated emission reductions achievable at Naughton Unit 3 under 40 CFR 51.308(e)(2)(i)(C). Note that the emission reductions associated with BART, when expressed in tons reduced per year, are shown in the section that follows.

• Analysis of Projected Emissions Reductions Achievable Through the BART Alternative

Pursuant to 40 CFR 51.308(e)(2)(i)(D), the SIP must include an analysis of projected emissions reductions achievable through the BART alternative. The BART alternative achieves emission reductions through the following control measures: conversion of the unit to natural gas firing, installation of new low-NO_X gas burners and FGR for NO_X control, and a limit on annual heat input equal to 40 percent of the maximum design heat input (when burning coal), or 12,964,800 MMBtu/year. The SIP revision includes an analysis of the projection emissions and emissions reductions associated with these alternative control measures as reproduced in Tables 4 and 5 below.

TABLE 4—NAUGHTON UNIT 3 EMISSION LIMITS WHEN CONVERTED TO NATURAL GAS

Permitted controls	NO_X	PM
New LNB, FGR	0.12 lb/MMBtu (30-day rolling) 250 lb/hr (30-day rolling) 519 tons/yr	0.008 lb/MMBtu. 30 lb/hr. 52 tons/yr.

TABLE 5—NAUGHTON UNIT 3 EMISSION COMPARISON WHEN CONVERTED TO NATURAL GAS

Fuel	Permitted controls	NO_X			PM		
		lb/MMbtu	lb/hr	tons/yr	lb/MMbtu	lb/hr	tons/yr
Coal	SCR, Fabric Filter	0.07	259	1,134	0.015	56	243
Natural Gas	New LNB, FGR, heat input limit.	0.12	250	519	0.008	30	52
Additional Reduction.			9	615	0.007	26	191

Here we note that Wyoming calculated the annual emission reductions achievable through BART based on a potential-to-emit (*i.e.,* allowable) emissions basis. For example, Wyoming calculated the annual emissions for NO_X under the BART scenario by multiplying the unit's maximum hourly heat input when

[38] 79 FR 5045 (January 30, 2014).

[39] Ibid.

combusting coal of 3,700 MMbtu/hr by the emission limit of 0.07 lb/MMBtu (30-day rolling average). Wyoming then converted the resulting value of 259 lb/hr to a tons/yr basis (3700 MMBtu/hr × 0.07 lb/MMBtu × 8760 hr/yr × 1 ton/2000 lb = 1,134 tons/yr). Wyoming's calculation for BART assumes that the unit would be operated at the maximum design heat input of 3,700 MMBtu/hr for the entire year (8,760 hours), yielding an annual heat input of 32,412,000 MMBtu. We disagree with the calculation methodology Wyoming used to calculate the annual emission reductions achievable with BART because they were based on a potential-to-emit basis. By contrast, in our analysis of NO_X BART associated with the 2011 SIP, consistent with the BART Guidelines,[40] we calculated the projected emissions with SCR based on past actual practice rather than the potential-to-emit. Our calculations reflected the actual operation of Naughton Unit 3 during the baseline period of 2001–2003 during which the heat input of the unit was 24,856,366 MMBtu.[41] In addition, as opposed to using the 30-day rolling average emission limit of 0.07 lb/MMBtu, the EPA used the anticipated annual emission rate with SCR of 0.05 lb/MMbtu.[42] Since that time, the 0.05 lb/MMBtu annual emission rate has been demonstrated at other PacifiCorp EGUs in Wyoming that have been retrofitted with SCR and that burn similar coal to Naughton Unit 3.[43] The result is that the EPA calculated that the projected actual annual NO_X emissions with SCR would be 621 tons/year[44] (as opposed to 1,134 tons/year calculated by Wyoming). Because the value of 621 tons/year was calculated consistent with the procedures outlined in the BART Guidelines, and reflects the projected actual emissions that would have been achieved with SCR, it sets the appropriate benchmark for making the better-than-BART comparison. To ensure an apples-to-apples comparison, it is also appropriate to calculate the projected annual emissions anticipated with the BART alternative in a commensurate manner to that for BART (*i.e.,* based on projected actual rather than allowable emissions). Nonetheless, even if annual emissions for the BART alternative are calculated based on an allowable emissions basis as Wyoming has done, the allowed annual emissions for the BART alternative of 519 tons/year is lower than the EPA's estimate for BART (SCR) of 621 tons/year. Therefore, regardless of whether the emission reductions achievable with the BART alternative are assessed on a projected actual or allowable emissions basis, the anticipated NO_X emissions are lower under the BART alternative than they are under BART. The same conclusion holds true for PM. Therefore, while we disagree with the State's potential-to-emit (allowable) methodology, we propose to agree with the State's conclusion that the emissions reductions achievable through the alternative measure are better-than-BART. 40 CFR 51.308(e)(2)(i)(D).

• Determination That the Alternative Achieves Greater Reasonable Progress Than Would Be Achieved Through the Installation and Operation of BART

Pursuant to 40 CFR 51.308(e)(2)(i)(E), the SIP revision must provide a determination under 40 CFR 51.308(e)(3) or otherwise based on the clear weight of evidence that the alternative achieves greater reasonable progress than BART. Two different tests for determining whether the alternative achieves greater reasonable progress than BART are outlined in 40 CFR 51.308(e)(3). Under the first test, if the distribution of emissions is not substantially different than under BART, and the alternative measure results in greater emission reductions, then the alternative measure may be deemed to achieve greater reasonable progress. Under the second test, if the distribution of emissions is significantly different, then dispersion modeling must be conducted to determine differences between BART and the BART alternative for each impacted Class I area for the worst and best 20 percent days. The modeling would demonstrate ''greater reasonable progress'' if both of the following criteria are met: (1) Visibility does not decline in any Class I area; and (2) there is an overall improvement in visibility, determined by comparing the average differences between BART and the alternative over all affected Class I areas. This modeling test is sometimes referred to as the ''two-prong test.''

As stated in the SIP revision, the emissions reductions under PacifiCorp's BART alternative will occur at the same unit, and therefore the distribution of emissions under BART and the better-than-BART alternative are not substantially different. Accordantly, if the BART alternative results in greater emission reductions, then it may be deemed to achieve greater reasonable progress. The SIP revision includes an analysis of the emission reductions achievable with the BART alternative as compared to BART which indicates that the BART alternative achieves greater emission reductions. As indicated in section E. above, the BART alternative will achieve additional NO_X reductions and additional PM reductions that are greater than achieved by BART.[45] Therefore, we propose to find that Wyoming's conclusion that the BART alternative achieves greater reasonable progress than would be achieved through the installation and operation of BART is appropriate. 40 CFR 51.308((e)(2)(i)(E).

2. A Requirement That All Necessary Emissions Reductions Take Place During the Period of the First Long-Term Strategy for Regional Haze

Pursuant to 40 CFR 51.308(e)(2)(iii), all necessary emission reductions must take place during the period of the first long-term strategy for regional haze. The RHR further provides that, to meet this requirement, a detailed description of the alternative measure, including schedules for implementation, the emission reductions required by the program, all necessary administrative and technical procedures for implementing the program, rules for accounting and monitoring emissions, and procedures for enforcement.

The SIP revision requires PacifiCorp to cease firing coal at Naughton Unit 3 no later than January 30, 2019.[46] Because no emissions will occur between the date that PacifiCorp must cease firing coal, and when the unit is converted to fire natural gas, the SIP revision achieves emission reductions before the original BART compliance date of March 4, 2019. As a result, we do not find that it is appropriate to disapprove this aspect of the BART alternative.

In addition, Wyoming has included the relevant implementation schedules, monitoring, reporting and record keeping requirements in the SIP revision as presented in section VI of this action. Accordingly, we propose to

[40] In general, for the existing sources subject-to-BART, you will estimate the anticipated annual emissions based upon *actual emissions* from a baseline period. 70 FR 39167 (July 5, 2005, emphasis added).

[41] Heat input data was obtained from the EPA Air Markets Program Data.

[42] 79 FR 5043, Table 14 (January 30, 2014); 79 FR 5167 (January 30, 2014).

[43] Refer to the EPA Air Markets Program Data for Jim Bridger Power Plant Units 3 and 4 where SCR was installed in 2015 and 2016, respectively.

[44] Andover Technology Partners, ''Cost of NO_X Controls on Wyoming EGUs'', October 28, 2013; ''Wyoming EGU BART and Reasonable Progress Cost,'' 10/28/2013. Docket ID EPA–R08–OAR–2012–0026–0241.

[45] These values are based on a comparison of allowable emissions. See discussion regarding allowable versus actual emissions in preceding section.

[46] Appendix B, p. 2 (PDF p. 187). The associated emission and operational limits apply upon conversion of Naughton Unit 3 to fire natural gas.

find that the BART alternative meets the requirements of 40 CFR 51.308(e)(2)(iii).

3. Demonstration That Emissions Reductions From the Alternative Measure Will Be Surplus

Pursuant to 40 CFR 51.308(e)(2)(iv), the SIP must demonstrate that the emissions reductions resulting from the BART alternative measure will be surplus to those reductions resulting from measures adopted to meet requirements of the CAA as of the baseline date of the SIP. The baseline date for regional haze SIPs is 2002. All the NO_X and PM emission reductions required by the BART alternative will occur in the future and are surplus to reductions resulting from SIP measures applicable to Naughton Unit 3 as of 2002. Therefore, we propose to find that the BART alternative complies with 40 CFR 51.308(e)(2)(iv).

In sum, we propose to find that the BART alternative meets all the applicable requirements of 40 CFR 51.308(e)(2).

IV. Clean Air Act Section 110(*l*)

Under CAA section 110(*l*), the EPA cannot approve a plan revision ''if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 7501 of this title), or any other applicable requirement of this chapter.'' [47] The previous sections of the action explain how the SIP revision will comply with applicable regional haze requirements and general implementation plan requirements such as enforceability. With respect to requirements concerning attainment and reasonable further progress, the Wyoming Regional Haze SIP, as revised by this action, will result in a significant reduction in emissions compared to current levels. Moreover, the SIP revision will result in decreased future NO_X and PM emissions as compared to the prior SIP, and will therefore achieve greater reasonable progress than the prior SIP. In addition, the area where the Naughton Unit 3 is located has not been designated nonattainment for any National Ambient Air Quality Standards (NAAQS). Thus, the revisions will ensure a significant reduction in NO_X and PM emissions compared to current levels in an area that has not been designated nonattainment for the relevant NAAQS at those current levels. Accordingly, we propose to find that these revisions satisfy section 110(*l*).

V. Consultation With FLMs

There are seven Class I areas in the State of Wyoming. The United States Forest Service (USFS) manages the Bridger Wilderness, Fitzpatrick Wilderness, North Absaroka Wilderness, Teton Wilderness and Washakie Wilderness. The National Park Service (NPS) manages the Grand Teton National Park and Yellowstone National Park. The RHR grants the FLMs a special role in the review of regional haze implementation plans, summarized in section II.E of this preamble.

Under 40 CFR 51.308(i)(2), Wyoming was obligated to provide the USFS and the NPS with an opportunity for consultation in development of the State's proposed SIP revision no less than 60 days prior to the associated public hearing or public comment opportunity. The SIP revision does not describe whether this consultation occurred. Nonetheless, Wyoming made the SIP revision for Naughton Unit 3 available to the public on June 5, 2017. The State's SIP submittal does not include any comments from the FLMs on its SIP revision for Naughton Unit 3 during the public comment period. Additionally, the FLMs will have an opportunity to comment during the public comment period for this action. We propose to find that while Wyoming did not state in its proposed SIP revision that it fully met its obligation to provide the FLMs with an opportunity for consultation in development of the SIP revision, the FLMs will have nevertheless been provided with two opportunities to comment.

VI. The EPA's Proposed Action

In this action, the EPA is proposing to approve Wyoming's SIP revision for the Alternative to BART for NO_X and PM for PacifiCorp Naughton Unit 3, including the associated emission and operational limitations, compliance dates, and monitoring, record keeping, and reporting requirements. Specifically, the EPA is proposing to approve the following federally enforceable elements of the SIP revision for Naughton Unit 3:

- The NO_X and PM emission limits found in Wyoming air quality permits MD–15946 (condition 5, lb/hr and tons/year) and P0021110 (condition 7, lb/MMbtu).
- The operational limit on annual heat input of 12,964,800 MMBtu (based on 12-month rolling average of hourly heat input values) found in Wyoming air quality permit P0021110 (condition 18).
- The compliance dates found in Wyoming air quality permit P0021110; specifically including that PacifiCorp shall (1) remove the coal pulverizers from service (cease firing coal) by January 30, 2019 (P0021110, condition 19), (2) comply with the NO_X and PM emission limits in lb/MMBtu upon conversion to natural gas firing (P0021110, condition 7), and (3) comply with the heat input limit by January 30, 2019 (P0021110, condition 18).
- The compliance dates found in Wyoming air quality permit MD–15946 (conditions 5 and 6), requiring that PacifiCorp comply with the NO_X and PM emission limits in lb/hr and tons/year upon completion of the initial performance tests.
- The monitoring, record keeping, and reporting requirements found in air quality permit P0021110 (NO_X CEMs, conditions 8 and 9; heat input, condition 18; PM stack testing, condition 10; reporting, conditions 4, 11, 12, 13, 14, 19; record keeping, condition 17; notification, conditions 4 and 6; good practice, condition 21; credible evidence, condition 24).

VII. Incorporation by Reference

In this rule, the EPA is proposing to include regulatory text in an EPA final rule that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the SIP amendments described in section VI. of this preamble. The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 8 Office (please contact the person identified in the ''For Further Information Contact'' section of this preamble for more information).

VIII. Statutory and Executive Order Reviews

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

[47] Note that ''reasonable further progress'' as used in CAA section 110(*l*) is a reference to that term as defined in section 301(a) (*i.e.,* 42 U.S.C. 7501(a)), and as such means reductions required to attain the National Ambient Air Quality Standards (NAAQS) set for criteria pollutants under section 109. This term as used in section 110(*l*) (and defined in section 301(a)) is *not* synonymous with ''reasonable progress'' as that term is used in the regional haze program. Instead, section 110(*l*) provides that the EPA cannot approve plan revisions that interfere with regional haze requirements (including reasonable progress requirements) insofar as they are ''other applicable requirement[s]'' of the CAA.

beyond those imposed by state law. For that reason, this action:

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

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Sulfur oxides.

Dated: November 2, 2018.

Douglas Benevento,

Regional Administrator, EPA Region 8.

40 CFR part 52 is proposed to be amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart ZZ—Wyoming

■ 2. Section 52.2620 is amended by adding in paragraph (d), the entry ''Naughton Unit 3'' at the end of the table; and by adding in paragraph (e), in numerical order, the entry ''(32) XXXII'' to read as follows:

§ 52.2620 Identification of plan.

* * * * *

(d) * * *

Regulation	Rule title	State effective date	EPA effective date	Final rule citation/date	Comments
*	*	*	*	*	*
Naughton Unit 3 ..	Air Quality SIP Permits containing BART Alternative requirements, MD–15946 and P0021110.	November 28, 2017.	December 7, 2018.	[**Federal Register** citation] November 7, 2018.	Only the following permit provisions: NO_X and PM emission limits (P0021110, condition 7; MD–15946, condition 5); emission limit compliance dates (P0021110, condition 7; MD–15946, conditions 5 and 6); heat input limit and compliance date (P0021110, condition 18); compliance date for coal pulverizers to be removed from service (P0021110, condition 19); and associated monitoring, recordkeeping, and reporting requirements (P0021110, conditions 4, 6, 8, 9, 10, 11, 12, 13, 14, 17, 18, 19, 21, and 24).

(e) * * *

Rule No.	Rule title	State effective date	EPA effective date	Final rule citation date	Comments
*	* *	*	*	*	* *
(32) XXXII	Wyoming State Implementation Plan 5-Year Progress Report for Regional Haze, Appendix B: Alternative to BART for NO_X and PM for PacifiCorp Naughton Unit 3.	November 28, 2017.	December 7, 2018.	[**Federal Register** citation], November 7, 2018.	Only includes Appendix B: Alternative to BART for NO_X and PM for PacifiCorp Naughton Unit 3.

■ 3. Section 52.2636 is amended by revising paragraph (a)(1)(vii) and amending paragraph(c)(1) by revising Table 1 to § 52.2636 to read as follows:

§ 52.2636 Implementation plan for regional haze.

(a) * * *

(1) * * *

(vii) PacifiCorp Naughton Power Plant Units 1 and 2 (PM and NO_X); and

* * * * *

(c) * * *

(1) * * *

TABLE 1 TO § 52.2636

[Emission limits for BART units for which EPA approved the State's BART and Reasonable Progress determinations]

Source name/BART unit	PM emission limits—lb/MMBtu	NO_X emission limits—lb/MMBtu (30-day rolling average)
FMC Westvaco Trona Plant/Unit NS–1A	0.05	0.35
FMC Westvaco Trona Plant/Unit NS–1B	0.05	0.35
TATA Chemicals Partners (General Chemical) Green River Trona Plant/Boiler C	0.09	0.28
TATA Chemicals Partners (General Chemical) Green River Trona Plant/Boiler D	0.09	0.28
Basin Electric Power Cooperative Laramie River Station/Unit 1	0.03	N/A
Basin Electric Power Cooperative Laramie River Station/Unit 2	0.03	N/A
Basin Electric Power Cooperative Laramie River Station/Unit 3	0.03	N/A
PacifiCorp Dave Johnston Power Plant/Unit 3	0.015	N/A
PacifiCorp Dave Johnston Power Plant/Unit 4	0.015	0.15
PacifiCorp Jim Bridger Power Plant/Unit 1[1]	0.03	0.26/0.07
PacifiCorp Jim Bridger Power Plant/Unit 2[1]	0.03	0.26/0.07
PacifiCorp Jim Bridger Power Plant/Unit 3[1]	0.03	0.26/0.07
PacifiCorp Jim Bridger Power Plant/Unit 4[1]	0.03	0.26/0.07
PacifiCorp Naughton Power Plant/Unit 1	0.04	0.26
PacifiCorp Naughton Power Plant/Unit 2	0.04	0.26
PacifiCorp Wyodak Power Plant/Unit 1	0.015	N/A

[1] The owners and operators of PacifiCorp Jim Bridger Units 1, 2, 3, and 4 shall comply with the NO_X emission limit for BART of 0.26 lb/MMBtu and PM emission limit for BART of 0.03 lb/MMBtu and other requirements of this section by March 4, 2019. The owners and operators of PacifiCorp Jim Bridger Units 1, 2, 3 and 4 shall comply with the NO_X emission limit for reasonable progress of 0.07 lb/MMBtu by: December 31, 2022, for Unit 1, December 31, 2021, for Unit 2, December 31, 2015, for Unit 3, and December 31, 2016, for Unit 4.

* * * * *

[FR Doc. 2018–24372 Filed 11–6–18; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 170831847–8853–01]

RIN 0648–BG91

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Industry-Funded Monitoring

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

ACTION: Proposed rule, request for comments.

SUMMARY: This action proposes regulations to implement the New England Fishery Management Council's Industry-Funded Monitoring Omnibus Amendment. The New England Council is considering ways to increase monitoring in certain fisheries to assess the amount and type of catch and reduce uncertainty around catch estimates. This amendment would implement a process to standardize future industry-funded monitoring programs in New England Council fishery management plans and industry-funded monitoring in the Atlantic herring fishery. This action would ensure consistency in industry-funded monitoring programs across fisheries and increase monitoring in the Atlantic herring fishery.

DATES: Public comments must be received by December 24, 2018.

ADDRESSES: You may submit comments, identified by NOAA–NMFS–2018–0109, by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal eRulemaking Portal.

1. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2018-0109;*

2. Click the ''Comment Now!'' icon and complete the required fields; and

3. Enter or attach your comments.

- *Mail:* Submit written comments to Michael Pentony, Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope, ''Comments on

the Proposed Rule for the Industry-Funded Monitoring Amendment.''

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by us. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. We will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

Copies of the Industry-Funded Monitoring Omnibus Amendment, including the Environmental Assessment, the Regulatory Impact Review, and the Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) prepared in support of this action are available from Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950. The supporting documents are also accessible via the internet at: *http://www.nefmc.org.*

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to the Greater Atlantic Regional Fisheries Office and by email to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Carrie Nordeen, Fishery Policy Analyst, phone: (978) 282–9272 or email: *Carrie.Nordeen@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Background

In 2013, the Mid-Atlantic and New England Fishery Management Councils initiated a joint omnibus amendment to allow industry-funded monitoring in all of the fishery management plans (FMP) that the Councils manage. The joint amendment would provide a mechanism to support industry-funded monitoring and remedy issues that prevented NMFS from approving some of the Councils' previous industry-funded monitoring proposals. The industry-funded monitoring would be in addition to monitoring requirements associated with the Standardized Bycatch Reporting Methodology (SBRM), the Endangered Species Act (ESA), and the Marine Mammal Protection Act (MMPA). The Councils were interested in increasing monitoring in certain FMPs to assess the amount and type of catch and to reduce uncertainty around catch estimates. Previous Council proposals for industry-funded monitoring either required NMFS to spend money that was not yet appropriated or split monitoring costs between the fishing industry and NMFS in ways that were inconsistent with Federal law.

In their development of the joint amendment, the Councils needed to remedy disapproved monitoring measures in Amendment 5 to the Atlantic Herring FMP (Amendment 5) (79 FR 8786, February 13, 2014) and Amendment 14 to the Atlantic Mackerel, Squid, and Butterfish FMP (Amendment 14) (79 FR 10029, February 24, 2014). Those measures recommended 100-percent observer coverage for the herring and mackerel fisheries and that NMFS would fund the increased monitoring along with a contribution by the fishing industry. Because NMFS's spending is limited by its Congressional appropriations, NMFS could not approve the Councils' recommendation because it could not guarantee that it would have sufficient funds to pay for the required increase in monitoring. Amendments 5 and 14 also recommended that the fishing industry contribution for industry-funded monitoring would be no more than $325 per day. Similarly, Framework 48 to the Northeast Multispecies FMP (78 FR 53363, August 29, 2013) recommended limiting the types of costs that industry would be responsible for paying in an industry-funded program, such that the industry would only have to pay for observer salaries. NMFS disapproved these proposals because they proposed the industry share monitoring costs with the government in ways that were inconsistent with Federal law.

To remedy the disapproved measures, the joint amendment would use a monitoring coverage target, as opposed to a mandatory coverage level, to allow NMFS to approve new monitoring programs without committing to support coverage levels above appropriated funding or before funding is determined to be available. Using a coverage target instead of mandatory coverage level means the realized coverage in a given year would be determined by the amount of Federal funding available to cover NMFS cost responsibilities in a given year. Industry-funded monitoring coverage targets would be specified in individual FMPs and realized coverage for a fishery in a given year would be anywhere from no additional coverage above SBRM up to the specified coverage target. Additionally, the joint amendment would define cost responsibilities for industry-funded monitoring programs between the fishing industry and NMFS in a manner that is consistent with legal requirements. Monitoring cost responsibilities may be divided between the industry and the government, provided government cost responsibilities are paid by the government and the government's costs are differentiated from the industry's cost responsibilities. Currently, that cost delineation is between administrative and sampling costs. The joint omnibus amendment would use that delineation to define cost responsibilities for future industry-funded monitoring programs.

The omnibus alternatives in the joint amendment, meaning those alternatives that would apply to all Council FMPs, considered measures to standardize the development and administration of future industry-funded monitoring programs. The joint amendment also included industry-funded monitoring coverage targets for the herring and mackerel fisheries. Information from industry-funded monitoring would primarily be used to help track catch (retained and discarded) against catch limits. The industry-funded monitoring types considered in the joint amendment for the herring and mackerel fisheries included observers, at-sea monitors, electronic monitoring, and portside sampling. To help the Councils evaluate the utility of electronic monitoring to verify catch retention and track discarded catch, NMFS conducted a voluntary electronic monitoring study in 2016 and 2017 with midwater trawl vessels that participate in the herring and mackerel fisheries.

At its April 2017 meeting, the Mid-Atlantic Council decided to postpone action on the joint amendment until the midwater trawl electronic monitoring study was completed. The Mid-Atlantic Council's decision was based, in part, on its desire to have more information on the use of electronic monitoring to track catch against catch limits and the monitoring costs associated with electronic monitoring that would be borne by the mackerel industry. The Mid-Atlantic Council is expected to re-consider whether it wants to continue developing industry-funded monitoring measures for its FMPs at its October 2018 meeting. The New England Council selected preferred omnibus and herring coverage target alternatives at its April 2017 meeting, and recommended NMFS consider the amendment for approval and implementation. Therefore, the joint amendment initiated by both Councils to allow for industry-funded monitoring has become the New England Industry-Funded

Monitoring Omnibus Amendment and the proposed measures would only apply to FMPs that the New England Council manages.

The midwater electronic monitoring study concluded in January 2018. NMFS, New England Council, and Mid-Atlantic Council staff reviewed the study's final report in March 2018 and concluded that electronic monitoring was suitable for detecting discarding events aboard midwater trawl vessels. The study also evaluated costs associated with using EM in the herring fishery, especially the sampling costs that would be paid by the fishing industry. Based on the study, NMFS estimated the industry's costs for EM at approximately $296 per coverage day, not including the initial costs of purchasing and installing equipment. The EA for the amendment estimated the industry's annual costs for portside sampling at $96,000 for the midwater trawl fleet and $8,700 per vessel. Therefore, NMFS estimated the industry's costs for using electronic monitoring and portside sampling would be approximately $515 per coverage day.

A Notice of Availability (NOA) for the New England Industry-Funded Omnibus Amendment was published in the **Federal Register** on September 19, 2018 (83 FR47326). The comment period for the NOA ends on November 19, 2018. Comments submitted on the NOA and/or this proposed rule prior to November 19, 2018, will be considered in our decision to approve, partially approve, or disapprove the Industry-Funded Monitoring Omnibus Amendment. We will consider comments received by the end of the comment period for this proposed rule December 24, 2018 in our decision to implement measures proposed by the Council.

Proposed Omnibus Measures

This amendment would standardize the development and administration of future industry-funded monitoring programs for New England Council FMPs only. However, only the Atlantic Herring FMP would be subject to an industry-funded monitoring program resulting from this amendment. In the future, if the New England Council develops an industry-funded monitoring program, the New England Council would develop those programs consistent with the specifications and requirements for industry-funded programs established in this amendment. The existing industry-funded monitoring programs in the Northeast Multispecies and Atlantic Sea Scallop FMPs would not be affected by this amendment. While proposed cost responsibilities and monitoring service provider requirements are consistent with the existing programs, the industry-funded monitoring programs in the Multispecies and Scallop FMPS would not be included in the proposed process to prioritize industry-funded monitoring programs for available Federal funding. The New England Council may incorporate these existing industry-funded monitoring programs into the prioritization process in a future action. Additionally, future industry-funded monitoring programs in the Multispecies and Scallop FMPs would either expand the existing programs or develop new programs consistent with the proposed omnibus measures.

As described previously, NMFS cannot approve and implement monitoring requirements for which it does not have available Federal funding to cover NMFS cost responsibilities. For that reason, this amendment proposes establishing industry-funded monitoring coverage targets in New England FMP with the understanding that annual funding available to cover NMFS cost responsibilities would likely vary and dictate realized coverage levels. The realized coverage in a given year would be determined by the amount of Federal funding available to cover NMFS cost responsibilities in a given year.

The standardized structure for future industry-funded monitoring programs in New England fisheries would apply to several types of monitoring, including observing, at-sea monitoring, electronic monitoring, portside sampling, and dockside monitoring. This rule proposes the following principles to guide the selection and implementation of future industry-funded monitoring programs. The Council's development of an industry-funded monitoring program must consider or include the following:

- A clear need or reason for the data collection;
- Objective design criteria;
- Cost of data collection should not diminish net benefits to the nation nor threaten continued existence of the fishery;
- Seek less data intensive methods to collect data necessary to assure conservation and sustainability when assessing and managing fisheries with minimal profit margins;
- Prioritize the use of modern technology to the extent practicable; and
- Incentives for reliable self-reporting.

All proposed omnibus measures are administrative, specifying a process to develop and administer future industry-funded monitoring and monitoring set-aside programs, and do not directly affect fishing effort or amounts of fish harvested. However, the proposed omnibus measures may have indirect effects on New England FMPs. Standardizing the process for developing and administering future industry-funded monitoring programs may help reduce the administrative burden associated with implementing new programs and may lead to greater consistency in the information collected through industry-funded monitoring programs. Improved catch information resulting from greater consistency in how information is collected may lead to better management of biological resources. The prioritization process may help ensure that available Federal funding is used to support industry-funded monitoring programs consistent with Council monitoring priorities. While industry-funded monitoring programs are expected to have an economic impact on the fishing industry, standard cost responsibilities may help the industry better understand and plan for their industry-funded monitoring cost responsibilities. Standard cost responsibilities may also aid the industry in negotiating coverage costs with service providers, which may ultimately reduce the dollar amount associated with industry cost responsibilities. Lastly, monitoring set-aside programs may help minimize the economic burden on the fishing industry associated with paying for monitoring coverage.

1. Standard Process To Implement and Revise Industry-Funded Monitoring Programs

This amendment would specify that future industry-funded monitoring programs would be implemented through an amendment to the relevant FMP. Because industry-funded monitoring programs have the potential to economically impact the fishing industry, the Council determined that implementing new industry-funded monitoring programs through an amendment would help ensure additional public notice and comment during the development of new programs. The details of any new industry-funded monitoring program implemented via amendment may include, but are not limited to:

- Level and type of coverage target;
- Rationale for level and type of coverage;
- Minimum level of coverage necessary to meet coverage goals;
- Consideration of waivers if coverage targets cannot be met;
- Process for vessel notification and selection;

- Cost collection and administration;
- Standards for monitoring service providers; and
- Any other measures necessary to implement the industry-funded monitoring program.

This amendment would also specify that future industry-funded monitoring programs, implemented through an amendment, may be revised through framework adjustments to the relevant FMP. Additional National Environmental Policy Act (NEPA) analysis would be required for any action implementing and/or modifying industry-funded monitoring programs, regardless if the vehicle is an amendment or framework adjustment.

2. Standard Cost Responsibilities

Cost responsibilities for industry-funded monitoring must be divided by cost category, rather than a dollar amount or percentage of total cost, between the fishing industry and NMFS. NMFS is obligated to pay any cost for which the benefit of the expenditure accrues to the government. This means that NMFS would be responsible for administrative costs to support industry-funded programs, but not the costs associated with sampling activities. Costs associated with sampling activities would be paid by the fishing industry. NMFS may help offset industry cost responsibilities through reimbursement if Federal funding is available, but NMFS cannot be obligated to pay sampling costs in industry-funded sampling programs. Cost responsibilities dictated by legal requirements cannot be modified through this amendment. Instead, this amendment would codify NMFS cost responsibilities for industry-funded monitoring in New England FMPs to ensure consistency and compliance with legal requirements.

NMFS would be responsible for paying costs associated with setting standards for, monitoring the performance of, and administering, industry-funded monitoring programs. These program elements would include:

- The labor and facilities costs associated with training and debriefing of monitors;
- NMFS-issued gear (*e.g.,* electronic reporting aids used by human monitors to record trip information);
- Certification of monitoring providers and individual observers or monitors;
- Performance monitoring to maintain certificates;
- Developing and executing vessel selection;
- Data processing (including electronic monitoring video audit, but excluding service provider electronic video review); and
- Costs associated with liaison activities between service providers, NMFS, Coast Guard, Council, sector managers, and other partners.

NMFS's costs to administer industry-funded monitoring for all monitoring types would be paid with Federal funds. The industry would be responsible for funding all other costs of the monitoring program, those costs would include, but are not limited to:

- Costs to the service provider for deployments and sampling (*e.g.,* travel and salary for observer deployments and debriefing);
- Equipment, as specified by NMFS, to the extent not provided by NMFS (*e.g.,* electronic monitoring system);
- Costs to the service provider for observer or monitor time and travel to a scheduled deployment that doesn't sail and was not canceled by the vessel prior to the sail time;
- Costs to the service provider for installation and maintenance of electronic monitoring systems;
- Provider overhead and project management costs (*e.g.,* provider office space, administrative and management staff, recruitment costs, salary and per diem for trainees); and
- Other costs of the service provider to meet performance standards laid out by a FMP.

The cost responsibilities described above are consistent with the existing scallop and multispecies industry-funded monitoring programs, although cost responsibilities are not explicitly defined in those FMPs. This amendment would codify NMFS cost responsibilities for industry-funded monitoring for all New England FMPs, but it would not alter current requirements for existing industry-funded monitoring programs.

3. Standard Requirements for Monitoring Service Providers and Observers/Monitors

The SBRM Omnibus Amendment adopted general industry-funded observer service provider and observer requirements (at 50 CFR 648.11(h) and (i), respectively) should a Council develop and implement a requirement or option for an industry-funded observer program to support SBRM in any New England or Mid-Atlantic Council FMP. However, the SBRM Amendment did not address requirements for other types of industry-funded monitoring programs or coverage in addition to SBRM.

This action would modify existing observer and service provider requirements to apply more broadly to monitoring by observers, at-sea monitors, portside samplers, and dockside monitors. Additionally, this amendment would apply those requirements to supplementing coverage required by SBRM, ESA, and MMPA. This rule proposes to expand and modify existing observer service provider requirements at § 648.11(h) to apply to service providers for observers, at-sea monitors, portside samplers, and dockside monitors. Similarly, this rule proposes to expand and modify existing observer requirements at § 648.11(i) to apply to observers, at-sea monitors, portside samplers, and dockside monitors, described collectively as observers/monitors. These observer/monitor requirements would serve as the default requirements for any future industry-funded monitoring programs in New England Council FMPs. The Council may specify new requirements or revise existing requirements for FMP-specific industry-funded monitoring programs, as part of the amendment developing those programs or the framework adjustment revising those programs.

4. Prioritization Process

This amendment would establish a Council-led process to prioritize industry-funded monitoring programs for available Federal funding across New England Council FMPs. This prioritization process would allow the Council discretion to align Council monitoring priorities with available funding to pay NMFS cost responsibilities associated with industry-funded monitoring. Revising the prioritization process would be done in a framework adjustment. The existing scallop and multispecies industry-funded monitoring programs would not be included in the proposed prioritization process, unless the New England Council takes action in the future to include those programs in the prioritization process or develops new industry-funded monitoring programs within those FMPs consistent with this amendment.

Available Federal funding refers to any funds in excess of those allocated to meet SBRM or other existing monitoring requirements that may be used to cover the government's costs associated with supporting industry-funded monitoring programs. Funding for SBRM, ESA, and MMPA observer coverage would not be affected by this prioritization process. Any industry-funded monitoring programs would be prioritized separately from and in addition to any SBRM coverage or other statutory coverage requirements. The realized industry-funded monitoring coverage in

a given year would be determined by the amount of Federal funding available to cover NMFS cost responsibilities in a given year.

When there is no Federal funding available to cover NMFS cost responsibilities above SBRM coverage in a given year, then no industry-funded monitoring programs would operate that year. If available funding in a given year is sufficient to support all industry-funded monitoring programs, the prioritization process would fully operationalize the industry-funded monitoring coverage targets specified in each FMP. If there is some available funding, but not enough to support all industry-funded monitoring programs, the Council would determine how to prioritize industry-funded monitoring coverage targets for available funding across FMPs.

As part of the Council-led prioritization process, this amendment would establish an equal weighting approach to prioritize industry-funded monitoring programs for available funding. An example of an equal weighting approach would be funding all industry-funded monitoring programs at 70 percent, if only 70 percent of the Federal funding needed to administer all the programs was available. Additionally, this rule proposes that the Council would adjust the equal weighting approach on an as-needed basis. This means that the equal weighting approach would be adjusted whenever a new industry-funded monitoring program is approved or whenever an existing industry-funded monitoring program is adjusted or terminated. The Council would revise the weighting approach for the Council-led prioritization process in a framework adjustment or by considering a new weighting approach at a public meeting, where public comment is accepted, and asking NMFS to publish a notice or rulemaking modifying the weighting approach, consistent with the Administrative Procedure Act (APA).

The SBRM coverage year begins in April and extends through March. SBRM coverage levels in a given year are determined by the variability of discard rates from the previous year and the availability of SBRM funding. During the spring, NMFS determines SBRM coverage for the upcoming year. Once NMFS finalizes SBRM coverage levels for the upcoming year, NMFS would then evaluate what Federal funding was available to cover its costs for meeting the industry-funded monitoring coverage targets for the next year. For example, once NMFS determines SBRM coverage for 2018, it would then evaluate what amount of government coverage costs could be covered by available Federal funding to meet industry-funded monitoring coverage targets for 2019. NMFS would provide the Council, at the earliest practicable opportunity: (1) The estimated industry-funded monitoring coverage levels, incorporating the prioritization process and weighting approach and based on available funding, for each FMP-specific monitoring program; and (2) the rationale for the industry-funded monitoring coverage levels, including the reason for any deviation from the Council's recommendations. NMFS would inform the Council of the estimated industry-funded coverage levels during a Council meeting. At that time, the Council may recommend revisions and additional considerations by the Regional Administrator and Science and Research Director. If NMFS costs associated with industry-funded coverage targets are fully funded in a given year, NMFS would also determine, in consultation with the Council, the allocation, if any, of any remaining available funding to offset industry costs. The earlier in the year that industry-funded monitoring coverage targets are set for the following year, the more time the affected fishing industry would have to plan for industry-funded monitoring the following year. FMP-specific industry-funded monitoring programs would determine if industry-funded coverage targets were administered consistent with the FMP's fishing year or the SBRM year.

5. Monitoring Set-Aside Programs

This amendment would standardize the process to develop future monitoring set-aside programs and would allow monitoring set-aside programs to be developed in a framework adjustment to the relevant FMP. A monitoring set-aside program would use a portion of the annual catch limit (ACL) from a fishery to help offset industry cost responsibilities associated with industry-funded monitoring coverage targets. There are many possible ways to structure a monitoring set-aside program, and the details of each program would be developed on an FMP-by-FMP basis. Monitoring set-aside programs are an option to help ease industry cost responsibilities associated with industry-funded monitoring, but they likely would only help offset a portion of the industry's cost responsibilities.

The details of monitoring set-aside programs may include, but are not limited to:

- The basis for the monitoring set-aside;
- The amount of the set-aside (*e.g.,* percentage of ACL, days-at-sea (DAS));
- How the set-aside is allocated to vessels required to pay for monitoring (*e.g.,* increased possession limit, differential DAS counting, additional trips against a percent of the ACL);
- The process for vessel notification;
- How funds are collected and administered to cover the industry's costs of monitoring coverage; and
- Any other measures necessary to develop and implement a monitoring set-aside.

Proposed Atlantic Herring Measures

This amendment would establish an industry-funded monitoring program in the Atlantic herring fishery that is expected to provide increased accuracy in catch estimates. Increased monitoring in the herring fishery would address the following goals: (1) Accurate estimates of catch (retained and discarded); (2) accurate catch estimates for incidental species with catch caps (haddock and river herring/shad); and (3) affordable monitoring for the herring fishery.

This amendment would establish a 50-percent industry-funded monitoring coverage target on vessels issued an All Areas (Category A) or Areas 2/3 (Category B) Limited Access Herring Permits fishing on a declared herring trip. The Council considered other coverage targets, including 100-percent, 75-percent, and 25-percent, but the 50-percent coverage target balanced the benefits and costs of additional monitoring. When tracking catch against catch caps in the herring fishery, analyses in the EA supporting this amendment suggest that a 50-percent coverage target would greatly reduce the uncertainty around catch estimates, and likely result in a coefficient of variation less than 30 percent almost all of the time. Additionally, the industry's cost responsibilities associated with a 50-percent coverage target are substantially less than those associated with higher coverage targets. Vessels participating in the herring fishery also participate in the Atlantic mackerel fishery. Currently, the mackerel fishery does not have an industry-funded monitoring program. If the Mid-Atlantic Council develops industry-funded monitoring in the mackerel fishery and the industry-funded coverage targets do not match for the herring and mackerel fisheries, then the higher coverage target would apply on all trips declared into the fishery with the higher coverage target.

Herring coverage targets would be calculated for the herring fishing year, January through December, by

combining SBRM and industry-funding monitoring coverage. NMFS would determine how to calculate the combined coverage target, in consultation with Council staff. For example, if there is 10-percent SBRM coverage in a given year, then 40-percent industry-funded monitoring coverage would be needed to achieve the 50-percent coverage target. Because the coverage target is calculated by combining SBRM and industry-funded monitoring coverage, a vessel would not have SBRM coverage and industry-funded coverage on the same trip. Any vessel selected for SBRM coverage on a particular trip would not have the option of industry-funded monitoring on that trip. Per the prioritization process in the proposed omnibus measures, the realized coverage level in a given year would be determined by the amount of funding available to cover NMFS cost responsibilities in a given year. The realized coverage for the herring fishery in a given year would fall somewhere between no additional coverage in addition to SBRM and the specified coverage target. Combined coverage targets are intended to help reduce the cost of industry-funded coverage, but the level of SBRM coverage in the herring fishery varies by gear type and has the potential to vary year to year. The variability of SBRM coverage has the potential to make it difficult for the herring industry to plan for industry-funded monitoring year to year.

In addition to the proposed standard monitoring and service provider requirements in the proposed omnibus measures, this amendment would specify that requirements for industry-funded observers and at-sea monitors in the herring fishery include a high volume fishery (HVF) certification. Currently, NMFS's Northeast Fisheries Observer Program (NEFOP) observers must possess a HVF certification in order to observe the herring fishery. NMFS developed the HVF certification to more effectively train observers in high volume catch sampling and documentation. NEFOP determined that data quality on herring trips was sub-optimal when collected by observers without specialized training, potentially resulting in data loss. In addition, the high variety of deck configurations, fish handling practices and fast-paced operations proved more demanding for observers. Having additional training to identify these practices improved decision-making while at sea, which, ultimately, improved data accuracy and maximized data collection.

Additionally, this amendment would require the Council to examine the results of any increased coverage in the herring fishery two years after implementation of this amendment, and consider if adjustments to the coverage targets are warranted. Depending on the results and desired actions, subsequent action to adjust the coverage targets could be accomplished via a framework adjustment or an amendment to the Herring FMP, as appropriate. Measures implemented in this amendment would remain in place unless revised by the Council.

1. Industry-Funded At-Sea Monitoring Coverage on Vessels Issued Category A or B Herring Permits

This rule proposes that vessels issued Category A or B herring permits would carry an industry-funded at-sea monitor on declared herring trips that are selected for coverage by NMFS, unless NMFS issues the vessel a waiver for coverage on that trip. Vessels would be selected for coverage by NMFS to meet the 50-percent coverage target. Prior to any trip declared into the herring fishery, representatives for vessels with Category A or B permits would be required to notify NMFS for monitoring coverage. If an SBRM observer was not selected to cover that trip, NMFS would notify the vessel representative whether an at-sea monitor must be procured through a monitoring service provider. Because the 50-percent coverage target is calculated by combining SBRM and industry-funded monitoring coverage, a vessel would not carry an SBRM observer on the same trip that would carry an at-sea monitor. If NMFS informs the vessel representative that they need at-sea monitoring coverage, they would then be required to obtain and pay for an at-sea monitor to carry on that trip. The vessel would be prohibited from fishing for, taking, possessing, or landing any herring without carrying an at-sea monitor on that trip. If NMFS informs the vessel representative that the vessel is not selected for at-sea monitoring coverage, NMFS would issue the vessel an at-sea monitoring coverage waiver for that trip.

This rule proposes three reasons for issuing vessels waivers from industry-funded monitoring requirements on a trip-by-trip basis. First, if an at-sea monitor was not available to cover a specific herring trip (either due to logistics or a lack of available Federal funding to cover NMFS cost responsibilities), NMFS would issue the vessel an at-sea monitoring coverage waiver for that trip. Second, if a vessel using midwater trawl gear intended to operate as a wing vessel on a trip, meaning that it would pair trawl with another midwater trawl vessel but would not pump or carry any fish onboard, then that vessel may request a waiver for industry-funded monitoring requirements on that trip. Vessels would notify NMFS in advance of the wing vessel trip, and NMFS would issue a waiver for industry-funded monitoring requirements on that trip. Wing vessels would be prohibited from carrying fish onboard during these trips. If a wing vessel did carry fish, the vessel would be out of compliance with industry-funded monitoring requirements on that trip. Third, if a vessel intended to land less than 50 metric tons (mt) of herring on a trip, then the vessel may request a waiver for industry-funded monitoring requirements on that trip. Vessels would notify NMFS in advance of the trip on which they intend to land less than 50 mt of herring, and NMFS would issue a waiver for industry-funded monitoring requirements on that trip. Vessels would be prohibited from landing 50 mt or more of herring on these trips. If the vessel landed 50 mt or more of herring, the vessel would be out of compliance with industry-funded monitoring requirements on that trip.

At-sea monitors would collect the following information on herring trips:

- Fishing gear information (*i.e.,* size of nets, mesh sizes, and gear configurations);
- Tow-specific information (*i.e.,* depth, water temperature, wave height, and location and time when fishing begins and ends);
- Species, weight, and disposition of all retained and discarded catch on observed hauls;
- Species, weight, and disposition of all retained catch on unobserved hauls;
- Actual catch weights whenever possible, or alternatively, weight estimates derived by sub-sampling;
- Length data, along with whole specimens and photos to verify species identification, on retained and discarded catch;
- Information on and biological samples from interactions with protected species, such as sea turtles, marine mammals, and sea birds; and
- Vessel trip costs (*i.e.,* operational costs for trips including food, fuel, oil, and ice).

The primary biological data that at-sea monitors would collect are length data on retained and discarded catch. However, to verify species identification, at-sea monitors may also collect whole specimens or photos. In the future, the Council may recommend that at-sea monitors collect additional biological information upon request. Revising what information an at-sea monitor collects could be done in a framework adjustment. Alternatively,

the Council may recommend that at-sea monitors collect additional biological information by considering the issue at a public meeting, where public comment is accepted, and asking NMFS to publish a notice or rulemaking modifying the duties for at-sea monitors, consistent with the APA.

In contrast to observers, at-sea monitors would not collect whole specimens, photos, or biological samples (other than length data) from catch, unless it was for purposes of species identification, or sighting data on protected species. The Council recommended a limited data collection compared to observers to allow for possible cost savings for either the industry or NMFS associated with a limited data collection.

Currently, vessels issued Category A or B herring permits are required to comply with all slippage restrictions, slippage reporting requirements, and slippage consequence measures when carrying an observer for SBRM coverage (§ 648.11(m)(4)). Because the purpose of slippage restrictions is to help ensure catch is made available for sampling, this rule proposes that existing slippage requirements would also apply when vessels are carrying an industry-funded at-sea monitor. Specifically, when vessels issued Category A or B herring permits are carrying either an SBRM observer or industry-funded at-sea monitor, vessels would be required to bring catch aboard the vessel and make it available for sampling prior to discarding. If vessels slipped catch for any reason, they would be required to report that slippage event on the daily vessel monitoring catch report and complete a slipped catch affidavit. If vessels slip catch due to excess catch of spiny dogfish, mechanical failure, or safety, then vessels would be required to move 15 nautical miles (27.78 km) following that slippage event and remain 15 nautical miles (27.78 km) away from that slippage event before making another haul and for the duration of that fishing trip. If vessels slip catch for any other reason, they would be required to terminate that fishing trip and immediately return to port.

Industry-funded monitoring would have direct economic impacts on vessels issued Category A and B permits participating in the herring fishery. The EA estimated the industry's cost responsibility associated with carrying an at-sea monitor at $710 per day. The EA uses returns-to-owner (RTO) to estimate the potential reduction in annual RTO associated with paying for monitoring coverage. RTO was calculated by subtracting annual operating costs from annual gross revenue and was used instead of net revenues to more accurately reflect fishing income. While the actual cost of industry-funded monitoring on a particular vessel would vary with effort level and the amount of SBRM coverage, analyses in the EA suggest that the cost of the proposed at-sea monitoring coverage may reduce the annual RTO for vessels with Category A or B herring permits up to approximately 20 percent. Waiving at-sea monitoring coverage requirements for wing vessel trips or trips that land less than 50 mt of herring would help reduce the cost of at-sea monitoring coverage on those trips, but those waivers are not an option for all vessels.

2. Industry-Funded Observer Coverage on Midwater Trawl Vessels Fishing in Groundfish Closed Areas

Midwater trawl vessels fishing in the Groundfish Closed Areas are required to carry an observer by measures at § 648.202(b). When Amendment 5 established that requirement, the Groundfish Closed Areas included Closed Area I, Closed Area II, Nantucket Lightship Closed Area, Cashes Ledge Closure Area, and the Western Gulf of Maine Closure Area. Currently, the only mechanism for midwater trawl vessels to carry an observer is if an observer is assigned through the SBRM. As described previously, SBRM coverage for midwater trawl vessels has recently been variable (approximately 4 percent to 40 percent from 2015 through 2017). This rule would maintain the requirement to carry an observer for midwater trawl vessels fishing in a Groundfish Closed Area, but it proposes that midwater trawl vessels would be able to purchase observer coverage in order to access Groundfish Closed Areas.

Prior to any trip declared into a Groundfish Closed Area, representatives for midwater trawl vessels would be required to provide notice to NMFS for monitoring coverage. If an SBRM observer was not selected to cover that trip, NMFS would notify the vessel representative that an observer may be procured through a monitoring service provider. The vessel would be prohibited from fishing in the Groundfish Closed Areas without carrying an observer. Observers would collect the following information on midwater trawl trips:

- Fishing gear information (*i.e.,* size of nets, mesh sizes, and gear configurations);
- Tow-specific information (*i.e.,* depth, water temperature, wave height, and location and time when fishing begins and ends);
- Species, weight, and disposition of all retained and discarded catch on observed hauls;
- Species, weight, and disposition of all retained catch on unobserved hauls;
- Actual catch weights whenever possible, or alternatively, weight estimates derived by sub-sampling;
- Whole specimens, photos, length information, and biological samples (*i.e.,* scales, otoliths, and/or vertebrae);
- Information on interactions with protected species, such as sea turtles, marine mammals, and sea birds; and
- Vessel trip costs (*i.e.,* operational costs for trip including food, fuel, oil, and ice).

The proposed measure to allow midwater trawl vessels to purchase observer coverage to access Groundfish Closed Areas would also have economic impacts on vessels participating in the herring fishery. The EA estimated the industry's cost responsibility associated with carrying an observer at $818 per day. While the actual cost of industry-funded monitoring on a particular vessel would vary with effort level and the amount of SBRM coverage, analyses in the EA suggest that the cost of observer coverage may reduce the annual RTO for midwater trawl vessels up to 5 percent. That 5 percent reduction in RTO would be in additional to any reduction in RTO due to other types of industry-funded monitoring coverage. Coverage waivers are not an option to reduce the cost of observer coverage because coverage waivers do not apply on midwater trawl vessels fishing in the Groundfish Closed Areas.

If the Groundfish Closed Areas are modified, eliminated, or added in the future, existing observer coverage requirements for midwater trawl vessels would apply to the modified areas. Anticipating changes to the Groundfish Closed Areas in the Omnibus Essential Fish Habitat Amendment 2 (Habitat Amendment), the Industry-Funded Monitoring Amendment Development Team/Fishery Management Action Team (PDT/FMAT) recommended the Council clarify its intent regarding the requirement that midwater trawl vessels fishing in Groundfish Closed Areas must carry an observer. In a March 17, 2017, memorandum, the PDT/FMAT noted that the Habitat Amendment proposed changes to Groundfish Closed Areas, such as eliminating areas, boundary changes, and seasonality. That same memorandum proposed the Council clarify that this amendment maintains the 100-percent observer coverage requirement on midwater trawl

vessels fishing in Groundfish Closed Areas, as modified by the Habitat Amendment. The Council accepted the FM PDT/FMAT's proposed clarification when it took final action on this amendment in April 2017.

In January 2018, NMFS partially approved the Habitat Amendment, including changes to Closed Area I, Nantucket Lightship Closed Area, and the Western Gulf of Maine Closure Area. Consistent with Council intent regarding observer coverage, the final rule for the Habitat Amendment (83 FR 15240, April 9, 2018) maintained the 100-percent observer requirement for midwater trawl vessels fishing in Closed Area I North (February 1–April 15), Closed Area II, Cashes Ledge Closure Area, and the Western Gulf of Maine Closure Area. Because the Habitat Amendment removed the Nantucket Lightship Closed Area from the list of Groundfish Closed Areas, the 100-percent observer coverage requirement no longer applies to midwater trawl vessels fishing in the area previously known as the Nantucket Lightship Closed Area.

Recognizing that it recommended multiple industry-funded monitoring types, including at-sea monitoring coverage and observer coverage in Groundfish Closed Areas, for the herring fishery, the Council also recommended prioritizing coverage aboard Category A and B vessels because those vessels harvest the majority of the herring. Consistent with that recommendation, if available Federal funding is insufficient to cover NMFS cost responsibilities associated with administering multiple monitoring programs for the herring fishery, this rule proposes prioritizing industry-funded monitoring coverage on Category A and B vessels before supporting observer coverage on midwater trawl vessels fishing in Groundfish Closed Areas.

Atlantic Herring Exempted Fishing Permit

On April 19, 2018, the New England Council considered whether electronic monitoring in conjunction with portside sampling, would be an adequate substitute for at-sea monitoring coverage aboard midwater trawl vessels. Because midwater trawl vessels discard only a small percentage of catch at sea, electronic monitoring and portside sampling have the potential to be a cost effective way to address monitoring goals for the herring fishery. The purpose of electronic monitoring would be to confirm catch retention and verify compliance with slippage restrictions, while the purpose of portside sampling would be to collect species composition data along with age and length information. After reviewing the midwater trawl electronic monitoring study, the Council approved electronic monitoring and portside sampling as a monitoring option for midwater trawl vessels, but did not recommend requiring electronic monitoring and portside sampling as part of this action. Instead, the Council recommended NMFS use an exempted fishing permit (EFP) to further evaluate how to best permanently administer an electronic monitoring and portside sampling program.

The EFP would exempt midwater vessels from the proposed requirement for industry-funded at-sea monitoring coverage and would allow midwater trawl vessels to use electronic monitoring and portside sampling coverage to comply with the Council-recommended 50-percent industry-funded monitoring coverage target. The recent midwater trawl electronic monitoring study provides a good foundation for an electronic monitoring program. However, using an EFP would provide NMFS with further information about how to most effectively and efficiently administer the electronic monitoring and portside sampling program, while allowing NMFS the flexibility to respond quickly to emerging issues, helping to make the monitoring program more robust. An EFP would also enable NMFS to evaluate other monitoring issues in the herring fishery that are of interest to the Council and herring industry. Lastly, NMFS could use an EFP to evaluate the utility of electronic monitoring and portside sampling when midwater trawl vessels switch to purse seining and/or fish in Groundfish Closed Areas.

The EFP would be developed concurrently with rulemaking for this amendment. If the proposed herring measures are approved, then midwater trawl vessels issued EFPs would be allowed to use electronic monitoring and portside sampling coverage to comply with the Council-recommended 50-percent industry-funded monitoring coverage target. The Council recommended reconsidering herring industry-funded monitoring requirements two years after implementation. The Council would consider establishing electronic monitoring and portside sampling program requirements into regulation via a framework adjustment at that time.

Proposed Corrections and Clarification

NMFS proposes the following corrections and updates under the authority of section 305(d) to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), which provides that the Secretary of Commerce may promulgate regulations necessary to carry out a FMP or the Magnuson-Stevens Act.

First, this rule proposes correcting the typographic error in § 648.7(b)(2)(i). This correction would correct ''opn 9access'' to ''open access'' and is necessary to clarify the intent of the regulation.

Second, this rule proposes updating outdated requirements for vessels operating under the midwater trawl and purse seine exempted fisheries. Regulations at § 648.80(d)(5) and (e)(5) require vessels to notify NMFS 72 hours in advance of a fishing trip to coordinate observer deployment. Amendment 5 replaced the 72-hour notification requirement with a 48-hour notification requirement to allow herring vessels more flexibility in their trip planning and scheduling. The 72-hour notification requirements for herring vessels in § 648.80 were overlooked in Amendment 5, so this rule proposes updating the 72-hour notification requirements with 48-hour notification requirements for midwater trawl and purse seine vessels to ensure consistent requirements across the herring fishery. Regulations at § 648.80(d)(5) also require midwater trawl vessels to inform NMFS if the vessels intends to fish in Groundfish Closed Area I. This requirement initially facilitated placing observers on midwater vessels fishing in Groundfish Closed Area I, but is no longer necessary. Therefore, this rule proposes removing the reference to Groundfish Closed Area I from the notification requirements so that requirements are consistent with proposed notification requirements at § 648.11(m)(2).

Third, this rule proposes allowing us to use both observer and monitor data to track catch against the haddock catch caps. Regulations at § 648.86(a)(3)(ii) state that the Regional Administrator shall use haddock catches observed by observers to estimate of total haddock catch in a given haddock stock area. However, the Council has spent the last several years considering additional monitoring types to increase monitoring in the herring fishery, particularly to track catch against haddock and river herring/shad catch caps. In a February 2016 letter, the Council requested that we use observer and portside sampling data to monitor fishery catch caps. Additionally, in this amendment, the Council recommended that vessels issued Category A and B herring permits carry at-sea monitors to meet a 50-percent industry-funded monitoring

coverage target. In § 648.2, this rule proposes defining observers or monitors to include NMFS-certified observers, at-sea monitors, portside samplers, and dockside monitors. For these reasons, this rule also proposes updating § 648.86(a)(3)(ii) to allow the Regional Administrator to use observer and monitor data to track catch against haddock catch caps.

Classification

Pursuant to section 304(a)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has made a preliminary determination that this proposed rule is consistent the Magnuson-Stevens Act and other applicable law. In making the final determination, we will consider the data, views, and comments received during the public comment period.

This proposed rule has been preliminarily determined to be not significant for purposes of Executive Orders (E.O.) 12866.

NMFS prepared an Initial Regulatory Flexibility Analysis (IRFA) for this proposed rule, as required by section 603 of the Regulatory Flexibility Act (RFA), 5 U.S.C. 603. The IRFA describes the economic impact that this proposed rule would have on small entities, including small businesses, and also determines ways to minimize these impacts. The proposed omnibus measures are administrative, specifying a process to develop and administer future industry-funded monitoring and monitoring set-aside programs, and do not directly affect fishing effort or amount of fish harvested. Because the proposed omnibus measures have no direct economic impacts, they will not be discussed in this section. The proposed Atlantic herring measures affect levels of monitoring, rather than harvest specifications, but they are expected to have economic impacts on fishery-related businesses and human communities due to the costs associated with the industry-funded monitoring measures for the herring fishery.

A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section. The IRFA includes this section of the preamble to this rule and analyses contained in the Industry-Funded Monitoring Omnibus Amendment and its accompanying EA/RIR/IRFA. A copy of the full analysis is available from the Council (see **ADDRESSES**). A summary of the IRFA follows.

Description of the Reason Why Action by the Agency Is Being Considered and Statement of the Objective of, and Legal Basis for, This Proposed Rule

This action proposes management measures for New England Fishery Management Council FMPs. A complete description of the reasons why this action is being considered, and the objectives of and legal basis for this action, are contained in the preamble to this proposed rule and are not repeated here.

Description and Estimate of the Number of Small Entities To Which the Proposed Rule Would Apply

Effective July 1, 2016, NMFS established a small business size standard of $11 million in annual gross receipts for all businesses primarily engaged in the commercial fishing industry for RFA compliance purposes only (80 FR 81194, December 29, 2015). The directly regulated entities are businesses that own at least one limited access Atlantic herring vessel. As of 2016, there are 66 businesses that own at least one limited access herring vessel. Four businesses are large entities (gross receipts greater than $11 million). The remaining 62 businesses are small entities. Gross receipts and gross receipts from herring fishing for the small entities are characterized in Table 1.

TABLE 1—GROSS REVENUES AND REVENUES FROM HERRING FOR THE DIRECTLY REGULATED SMALL ENTITIES

	Gross receipts from herring permitted firms	Gross receipts from herring fishing
Mean	$1,847,392	$422,210
Median	$1,076,172	$0
25th Percentile	$656,965	$0
75th Percentile	$2,684,753	$95,218
Permitted Small Entities	62	62

Source: NMFS.

Many of the businesses that hold limited access herring permits are not actively fishing for herring. Of those businesses actively fishing for herring, there are 32 directly regulated entities with herring landings. Two firms are large entities (gross receipts over $11 million). The remaining 30 businesses are small entities. Table 2 characterizes gross receipts and gross receipts from the herring fishery for the active firms.

TABLE 2—GROSS REVENUES AND REVENUES FROM HERRING FOR THE ACTIVE DIRECTLY REGULATED SMALL ENTITIES

	Gross receipts from active herring permitted firms	Gross receipts from herring fishing
Mean	$2,070,541	$872,567
Median	$1,030,411	$95,558
25th Percentile	$554,628	$6,570
75th Percentile	$2,955,883	$1,696,758
Active Small Entities	30	30

Source: NMFS.

For the 30 small entities, herring represents an average of 36 percent of gross receipts. For 12 of the small entities, herring represents the single largest source of gross receipts. For eight of the small entities, longfin squid is the largest source of gross receipts and Atlantic sea scallops is the largest source of gross receipts for five of the small entities. The largest source of gross receipts for the remaining five small entities are mixed across different fisheries. Eight of the 30 small entities derived zero revenues from herring.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

This proposed rule contains collection-of-information requirements subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). The new requirements, which are described in detail in the preamble, have been submitted to OMB for approval as a new collection. The proposed action does not duplicate, overlap, or conflict with any other Federal rules.

The Industry-Funded Monitoring Amendment would replace the current phone-based observer pre-trip notification system with a new web-based pre-trip notification system. There would be no additional reporting burden associated with this measure because the new notification system would increase convenience and will require approximately the same time burden (5 minutes).

This amendment would implement a 50-percent industry-funded monitoring coverage target on vessels issued Category A or B herring permits. The herring industry would be required to pay for industry cost responsibilities associated with at-sea monitoring. There are an estimated 42 vessels with Category A or B permits in the herring fishery. After considering SBRM coverage, NMFS estimates that each vessel would incur monitoring costs for

an additional 19 days at sea per year, at an estimated maximum cost of $710 per sea day. The annual cost estimate for carrying an at-sea monitor for Category A and B vessels would be $566,580, with an average cost per vessel of $13,490.

In addition to the 50-percent industry-funded monitoring coverage target, midwater trawl vessels would have the option to purchase observer coverage to allow them to fish in Groundfish Closed Areas. This option would be available to the estimated 12 vessels that fish with midwater trawl gear. Since this option would be available on all trips not otherwise selected for SBRM or industry-funded at-sea monitoring coverage, it is estimated that each vessel may use this option for up to 21 days per year, at an estimated maximum cost of $818 per sea day. Therefore, the annual cost associated with industry-funded observer coverage for midwater trawl vessels fishing in Groundfish Closed Areas is estimated to be $206,136, with an average annual cost per vessel of $17,178.

To access Groundfish Closed Areas, owners/operators of the 12 affected midwater trawl vessels would request an observer by calling one of the approved monitoring service providers. The average midwater trawl vessel is estimated to take 7 of these trips per year, and each call would take an estimated 5 minutes at a rate of $0.10 per minute. Thus, the total annual burden estimate to the industry for calls to obtain industry-funded observer coverage would be 7 hours and $42 (Per vessel: 1 hr and $3.50). For each of the 7 estimated trips that the vessel calls in to request an industry-funded observer to access Groundfish Closed Areas, the vessel has the option to cancel that trip. The call to cancel the trip would take an estimated 1 minute at a rate of $0.10 per minute. The total annual burden estimated to the industry for cancelling these trips would be 1 hour and $8 (Per vessel: 1 hr and $1).

NMFS expects that some monitoring service providers would apply for approval under the service provider requirements at § 648.11(h), specifically that four out of six providers may apply for approval, and would be subject to these requirements. These providers would submit reports and information required of service providers as part of their application for approval. Service providers must comply with the following requirements, submitted via email, phone, web-portal, fax, or postal service: Submit applications for approval as a monitoring service provider; formally request industry-funded at-sea monitor training by the NEFOP; submit industry-funded at-sea monitor deployment and availability reports; submit biological samples, safety refusal reports, and other reports; give notification of industry-funded at-sea monitor availability within 24 hours of the vessel owner's notification of a prospective trip; provide vessels with notification of industry-funded observer availability in advance of each trip; maintain an updated contact list of all industry-funded at-sea monitors/observers that includes the monitor's/observer's identification number, name, mailing and email address, phone numbers, homeports or fisheries/trip types assigned, and whether or not the monitor/observer is ''in service'' (*i.e.,* available to provide coverage services). Monitoring service providers would have to provide raw at-sea monitoring data to NMFS and make at-sea monitors available to NMFS for debriefing upon request. The regulations would also require monitoring service providers to submit any outreach materials, such as informational pamphlets, payment notification, and descriptions of monitor duties, as well as all contracts between the service provider and entities requiring monitoring services for review to NMFS. Monitoring service providers also have the option to respond to application denials, and submit a rebuttal in response to a pending removal from the list of approved monitoring service providers. NMFS expects that all of these reporting requirements combined are expected to take 1,192 hours of response time per year for a total annual cost of $12,483 for all affected monitoring service providers ($3,121 per provider). The following table provides the detailed time and cost information for each response item.

TABLE 3—BURDEN ESTIMATE FOR PROPOSED MEASURES

Monitoring service provider requirements	Number of entities	Total number of items	Response time per response (minutes)	Total time burden (hours)	Cost per response ($)	Total annual public cost ($)
Monitor deployment report by email	4	444	10	74	0.00	0.00
Monitor availability report by email	4	216	20	72	0.00	0.00
Safety refusals by email	4	40	30	20	0.00	0.00
Raw monitor data by express mail	4	444	5	37	23.75	10,545
Monitor debriefing	4	124	120	248	12.00	1,488
Other reports	4	68	30	34	0.00	0.00
Biological samples	4	516	60	516	0.50	258
New application to be a service provider	4	4	600	40	0.49	2
Applicant response to denial	1	1	600	10	0.49	1
Request to service provider to procure a monitor by web-portal	90	360	10	60	0.00	0.00
Notification of unavailability of monitors	90	360	5	30	0.00	0.00
Request to service provider to procure an observer for Groundfish Closed Areas by phone	21	84	10	14	1.00	84.00
Notification of unavailability of observers for Groundfish Closed Areas	21	84	5	7	0.50	42.00
Request for monitor training	4	12	30	6	1.80	21.60
Rebuttal of pending removal from list of approved service providers	1	1	480	8	0.49	1
Monitor contact list updates	4	48	5	4	0.00	0.00
Monitor availability updates	4	48	5	4	0.00	0.00
Service provider material submissions	4	8	30	4	2.50	20.00
Service provider contracts	4	8	30	4	2.50	20.00
Total				1,192		12,483

Public comment is sought regarding the following: Whether this proposed collection of information is necessary for the proper performance of agency functions, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to the Regional Administrator (see **ADDRESSES**) and email to *OIRA_Submission@omb.eop.gov* or fax to 202–395–7285.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

Federal Rules Which May Duplicate, Overlap, or Conflict With the Proposed Rule

This action does not duplicate, overlap, or conflict with any other Federal rules.

Description of Significant Alternatives to the Proposed Action Which Accomplish the Stated Objectives of Applicable Statues and Which Minimize Any Significant Economic Impact on Small Entities

None of the non-preferred herring alternatives would be expected to accomplish the stated objectives for monitoring in the herring fishery as well as the proposed action. The following are objectives for increased monitoring in the herring fishery: (1) Accurate estimates of catch (retained and discarded), (2) accurate catch estimates for incidental species with catch caps (haddock and river herring/shad), and (3) affordable monitoring for the herring fishery. Herring alternatives considered different combinations of monitoring types (observers, at-sea monitors, electronic monitoring, portside sampling) and coverage targets (100 percent, 75 percent, 50 percent, 25 percent) on herring fleets (vessels with Category A or B permits, midwater trawl vessels). Non-preferred herring alternatives with coverage targets of 100 percent or 75 percent would have higher costs than the proposed action. Non-preferred herring alternatives for the midwater trawl fleet or those with 25-percent coverage targets may not have improved monitoring in the herring fishery as well as the proposed action.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: October 30, 2018.

Samuel D. Rauch, III,

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

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

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

■ 2. In § 648.2, add the definition for ''Observer or monitor'' and revise the definitions for ''Electronic monitoring'' and ''Slippage in the Atlantic herring fishery'' and ''Slip(s) or slipping catch in the Atlantic herring fishery'' in alphabetical order to read as follows:

§ 648.2 Definitions.

* * * * *

Electronic monitoring means a network of equipment that uses a software operating system connected to one or more technology components, including, but not limited to, cameras and recording devices to collect data on catch and vessel operations.

* * * * *

Observer or monitor means any person certified by NMFS to collect operational fishing data, biological data, or economic data through direct observation and interaction with operators of commercial fishing vessels as part of NMFS' Northeast Fisheries Observer Program. Observers or monitors include NMFS-certified fisheries observers, at-sea monitors, portside samplers, and dockside monitors.

* * * * *

Slippage in the Atlantic herring fishery means catch that is discarded prior to it being brought aboard a vessel issued an Atlantic herring permit and/or prior to making it available for sampling and inspection by a NMFS-certified observer or monitor. Slippage also means any catch that is discarded during a trip prior to it being sampled portside by a portside sampler on a trip selected for portside sampling coverage by NMFS. Slippage includes releasing catch from a codend or seine prior to the completion of pumping the catch aboard and the release of catch from a codend or seine while the codend or seine is in the water. Fish that cannot be pumped and remain in the codend or seine at the end of pumping operations are not considered slippage. Discards that occur after the catch is brought on board and made available for sampling and inspection by a NMFS-certified observer or monitor are also not considered slippage.

Slip(s) or slipping catch in the Atlantic herring fishery means discarded catch from a vessel issued an Atlantic herring permit that is carrying a NMFS-certified observer or monitor prior to the catch being brought on board or prior to the catch being made available for sampling and inspection by a NMFS-approved observer or monitor after the catch is on board. Slip(s) or slipping catch also means any catch that is discarded during a trip prior to it being sampled portside by a portside sampler on a trip selected for portside sampling coverage by NMFS. Slip(s) or slipping catch includes releasing fish from a codend or seine prior to the completion of pumping the fish on board and the release of fish from a codend or seine while the codend or seine is in the water. Slippage or slipped catch refers to fish that are slipped. Slippage or slipped catch does not include operational discards, discards that occur after the catch is brought on board and made available for sampling and inspection by a NMFS-certified observer or monitor, or fish that inadvertently fall out of or off fishing gear as gear is being brought on board the vessel.

* * * * *

■ 3. In § 648.7, revise paragraph (b)(2)(i) to read as follows:

§ 648.7 Record keeping and reporting requirements.

* * * * *

(b) * * *

(2) * * *

(i) *Atlantic herring owners or operators issued an All Areas open access permit.* The owner or operator of a vessel issued an All Areas open access permit to fish for herring must report catch (retained and discarded) of herring via an IVR system for each week herring was caught, unless exempted by the Regional Administrator. IVR reports are not required for weeks when no herring was caught. The report shall include at least the following information, and any other information required by the Regional Administrator: Vessel identification; week in which herring are caught; management areas fished; and pounds retained and pounds discarded of herring caught in each management area. The IVR reporting week begins on Sunday at 0001 hour

(hr) (12:01 a.m.) local time and ends Saturday at 2400 hr (12 midnight). Weekly Atlantic herring catch reports must be submitted via the IVR system by midnight each Tuesday, eastern time, for the previous week. Reports are required even if herring caught during the week has not yet been landed. This report does not exempt the owner or operator from other applicable reporting requirements of this section.

* * * * *

■ 4. Revise § 648.11 and the section heading to read as follows:

§ 648.11 Monitoring coverage.

(a) The Regional Administrator may request any vessel holding a permit for Atlantic sea scallops, NE multispecies, monkfish, skates, Atlantic mackerel, squid, butterfish, scup, black sea bass, bluefish, spiny dogfish, Atlantic herring, tilefish, Atlantic surfclam, ocean quahog, or Atlantic deep-sea red crab; or a moratorium permit for summer flounder; to carry a NMFS-certified fisheries observer. A vessel holding a permit for Atlantic sea scallops is subject to the additional requirements specified in paragraph (k) of this section. A vessel holding an All Areas or Areas 2/3 Limited Access Herring Permit is subject to the additional requirements specified in paragraph (m) of this section. Also, any vessel or vessel owner/operator that fishes for, catches or lands hagfish, or intends to fish for, catch, or land hagfish in or from the exclusive economic zone must carry a NMFS-certified fisheries observer when requested by the Regional Administrator in accordance with the requirements of this section.

(b) If requested by the Regional Administrator or their designees, including NMFS-certified observers, monitors, and NMFS staff, to be sampled by an observer or monitor, it is the responsibility of the vessel owner or vessel operator to arrange for and facilitate observer or monitor placement. Owners or operators of vessels selected for observer or monitor coverage must notify the appropriate monitoring service provider before commencing any fishing trip that may result in the harvest of resources of the respective fishery. Notification procedures will be specified in selection letters to vessel owners or permit holder letters.

(c) The Regional Administrator may waive the requirement to be sampled by an observer or monitor if the facilities on a vessel for housing the observer or monitor, or for carrying out observer or monitor functions, are so inadequate or unsafe that the health or safety of the observer or monitor, or the safe operation of the vessel, would be jeopardized.

(d) An owner or operator of a vessel on which a NMFS-certified observer or monitor is embarked must:

(1) Provide accommodations and food that are equivalent to those provided to the crew.

(2) Allow the observer or monitor access to and use of the vessel's communications equipment and personnel upon request for the transmission and receipt of messages related to the observer's or monitor's duties.

(3) Provide true vessel locations, by latitude and longitude or loran coordinates, as requested by the observer or monitor, and allow the observer or monitor access to and use of the vessel's navigation equipment and personnel upon request to determine the vessel's position.

(4) Notify the observer or monitor in a timely fashion of when fishing operations are to begin and end.

(5) Allow for the embarking and debarking of the observer or monitor, as specified by the Regional Administrator, ensuring that transfers of observers or monitors at sea are accomplished in a safe manner, via small boat or raft, during daylight hours as weather and sea conditions allow, and with the agreement of the observers or monitors involved.

(6) Allow the observer or monitor free and unobstructed access to the vessel's bridge, working decks, holding bins, weight scales, holds, and any other space used to hold, process, weigh, or store fish.

(7) Allow the observer or monitor to inspect and copy any the vessel's log, communications log, and records associated with the catch and distribution of fish for that trip.

(e) The owner or operator of a vessel issued a summer flounder moratorium permit, a scup moratorium permit, a black sea bass moratorium permit, a bluefish permit, a spiny dogfish permit, an Atlantic herring permit, an Atlantic deep-sea red crab permit, a skate permit, or a tilefish permit, if requested by the observer or monitor, also must:

(1) Notify the observer or monitor of any sea turtles, marine mammals, summer flounder, scup, black sea bass, bluefish, spiny dogfish, Atlantic herring, Atlantic deep-sea red crab, tilefish, skates (including discards) or other specimens taken by the vessel.

(2) Provide the observer or monitor with sea turtles, marine mammals, summer flounder, scup, black sea bass, bluefish, spiny dogfish, Atlantic herring, Atlantic deep-sea red crab, skates, tilefish, or other specimens taken by the vessel.

(f) NMFS may accept observer or monitor coverage funded by outside sources if:

(1) All coverage conducted by such observers or monitors is determined by NMFS to be in compliance with NMFS' observer or monitor guidelines and procedures.

(2) The owner or operator of the vessel complies with all other provisions of this part.

(3) The observer or monitor is approved by the Regional Administrator.

(g) *Industry-Funded Monitoring Programs.* Fishery management plans (FMPs) managed by the New England Fishery Management Council (New England Council), including Atlantic Herring, Atlantic Salmon, Atlantic Sea Scallops, Deep-Sea Red Crab, Northeast Multispecies, and Northeast Skate Complex, may include industry-funded monitoring programs (IFM) to supplement existing monitoring required by the Standard Bycatch Reporting Methodology (SBRM), Endangered Species Act, and the Marine Mammal Protection Act. IFM programs may use observers, monitors, including at-sea monitors and portside samplers, and electronic monitoring to meet specified IFM coverage targets. The ability to meet IFM coverage targets may be constrained by the availability of Federal funding to pay NMFS cost responsibilities associated with IFM.

(1) *Guiding Principles for New IFM Programs.* The Council's development of an IFM program must consider or include the following:

(i) A clear need or reason for the data collection;

(ii) Objective design criteria;

(iii) Cost of data collection should not diminish net benefits to the nation nor threaten continued existence of the fishery;

(iv) Seek less data intensive methods to collect data necessary to assure conservation and sustainability when assessing and managing fisheries with minimal profit margins;

(v) Prioritize the use of modern technology to the extent practicable; and

(vi) Incentives for reliable self-reporting.

(2) *Process To Implement and Revise New IFM Programs.* New IFM programs shall be developed via an amendment to a specific FMP. IFM programs implemented in an FMP may be revised via a framework adjustment. The details of an IFM program may include, but are not limited to:

(i) Level and type of coverage target,

(ii) Rationale for level and type of coverage,

(iii) Minimum level of coverage necessary to meet coverage goals,

(iv) Consideration of waivers if coverage targets cannot be met,

(v) Process for vessel notification and selection,

(vi) Cost collection and administration,

(vii) Standards for monitoring service providers, and

(viii) Any other measures necessary to implement the industry-funded monitoring program.

(3) *NMFS Cost Responsibilities.* IFM programs have two types of costs, NMFS and industry costs. Cost responsibilities are delineated by the type of cost. NMFS cost responsibilities include the following:

(i) The labor and facilities associated with training and debriefing of monitors;

(ii) NMFS-issued gear (*e.g.,* electronic reporting aids used by human monitors to record trip information);

(iii) Certification of monitoring service providers and individual observers or monitors; performance monitoring to maintain certificates;

(iv) Developing and executing vessel selection;

(v) Data processing (including electronic monitoring video audit, but excluding service provider electronic video review); and

(vi) Costs associated with liaison activities between service providers, and NMFS, Coast Guard, New England Council, sector managers, and other partners.

(vii) The industry is responsible for all other costs associated with IFM programs.

(4) *Prioritization Process to Cover NMFS IFM Cost Responsibilities.* (i) Available Federal funding refers to any funds in excess of those allocated to meet SBRM requirements or the existing IFM programs in the Atlantic Sea Scallop and Northeast Multispecies FMPs that may be used to cover NMFS cost responsibilities associated with IFM coverage targets. If there is no available Federal funding in a given year to cover NMFS IFM cost responsibilities, then there shall be no IFM coverage during that year. If there is some available Federal funding in a given year, but not enough to cover all of NMFS cost responsibilities associated with IFM coverage targets, then the New England Council will prioritize available Federal funding across IFM programs during that year. Existing IFM programs for Atlantic sea scallops and Northeast multispecies fisheries shall not be included in this prioritization process.

(ii) Programs with IFM coverage targets shall be prioritized using an equal weighting approach, such that any available Federal funding shall be divided equally among programs.

(iii) After NMFS determines the amount of available Federal funding for the next fishing year, NMFS shall provide the New England Council with the estimated IFM coverage levels for the next fishing year. The estimated IFM coverage levels would be based on the equal weighting approach and would include the rationale for any deviations from the equal weighting approach. The New England Council may recommend revisions and additional considerations to the Regional Administrator and Science and Research Director.

(A) If available Federal funding exceeds that needed to pay all of NMFS cost responsibilities for administering IFM programs, the New England Council may request NMFS to use available funding to help offset industry cost responsibilities through reimbursement.

(B) [Reserved]

(iv) Revisions to the prioritization process may be made via a framework adjustment to all New England FMPs.

(v) Revisions to the weighting approach for the New England Council-led prioritization process may be made via a framework adjustment to all New England FMPs or by the New England Council considering a new weighting approach at a public meeting, where public comment is accepted, and requesting NMFS to publish a notice or rulemaking revising the weighting approach. NMFS shall implement revisions to the weighting approach in a manner consistent with the Administrative Procedure Act.

(5) *IFM Program Monitoring Service Provider Requirements.* IFM monitoring service provider requirements shall be consistent with requirements in paragraphs (h) of this section and observer or monitor requirements shall be consistent with requirements in paragraph (i) of this section.

(6) *Monitoring Set-Aside.* The New England Council may develop a monitoring set-aside program for individual FMPs that would devote a portion of the annual catch limit for a fishery to help offset the industry cost responsibilities for monitoring coverage, including observers, at-sea monitors, portside samplers, and electronic monitoring.

(i) The details of a monitoring set-aside program may include, but are not limited to:

(A) The basis for the monitoring set-aside;

(B) The amount of the set-aside (*e.g.,* quota, days at sea);

(C) How the set-aside is allocated to vessels required to pay for monitoring (*e.g.,* an increased trip limit, differential days at sea counting, additional trips, an allocation of the quota);

(D) The process for vessel notification;

(E) How funds are collected and administered to cover the industry's costs of monitoring; and

(F) Any other measures necessary to develop and implement a monitoring set-aside.

(ii) The New England Council may develop new monitoring set-asides and revise those monitoring set-asides via a framework adjustment to the relevant FMP.

(h) *Monitoring service provider approval and responsibilities*—(1) General. An entity seeking to provide monitoring services, including services for IFM Programs described in paragraph (g) of this section, must apply for and obtain approval from NMFS following submission of a complete application. Monitoring services include providing NMFS-certified observers, monitors (at-sea monitors and portside samplers), and/or electronic monitoring. A list of approved monitoring service providers shall be distributed to vessel owners and shall be posted on the NMFS Fisheries Sampling Branch (FSB) website at: *https://www.nefsc.noaa.gov/femad/fsb/.*

(2) [Reserved]

(3) *Contents of application.* An application to become an approved monitoring service provider shall contain the following:

(i) Identification of the management, organizational structure, and ownership structure of the applicant's business, including identification by name and general function of all controlling management interests in the company, including but not limited to owners, board members, officers, authorized agents, and staff. If the applicant is a corporation, the articles of incorporation must be provided. If the applicant is a partnership, the partnership agreement must be provided.

(ii) The permanent mailing address, phone and fax numbers where the owner(s) can be contacted for official correspondence, and the current physical location, business mailing address, business telephone and fax numbers, and business email address for each office.

(iii) A statement, signed under penalty of perjury, from each owner or owners, board members, and officers, if a corporation, that they are free from a

conflict of interest as described under paragraph (h)(6) of this section.

(iv) A statement, signed under penalty of perjury, from each owner or owners, board members, and officers, if a corporation, describing any criminal conviction(s), Federal contract(s) they have had and the performance rating they received on the contracts, and previous decertification action(s) while working as an observer or monitor or monitoring service provider.

(v) A description of any prior experience the applicant may have in placing individuals in remote field and/or marine work environments. This includes, but is not limited to, recruiting, hiring, deployment, and personnel administration.

(vi) A description of the applicant's ability to carry out the responsibilities and duties of a monitoring service provider as set out under paragraph (h)(5) of this section, and the arrangements to be used.

(vii) Evidence of holding adequate insurance to cover injury, liability, and accidental death for observers or monitors, whether contracted or employed by the service provider, during their period of employment (including during training). Workers' Compensation and Maritime Employer's Liability insurance must be provided to cover the observer or monitor, vessel owner, and observer provider. The minimum coverage required is $5 million. Monitoring service providers shall provide copies of the insurance policies to observers or monitors to display to the vessel owner, operator, or vessel manager, when requested.

(viii) Proof that its observers or monitors, whether contracted or employed by the service provider, are compensated with salaries that meet or exceed the U.S. Department of Labor (DOL) guidelines for observers. Observers shall be compensated as Fair Labor Standards Act (FLSA) non-exempt employees. Monitoring service providers shall provide any other benefits and personnel services in accordance with the terms of each observer's or monitor's contract or employment status.

(ix) The names of its fully equipped, NMFS/FSB certified, observers or monitors on staff or a list of its training candidates (with resumes) and a request for an appropriate NMFS/FSB Training class. All training classes have a minimum class size of eight individuals, which may be split among multiple vendors requesting training. Requests for training classes with fewer than eight individuals will be delayed until further requests make up the full training class size.

(x) An Emergency Action Plan (EAP) describing its response to an ''at sea'' emergency with an observer or monitor, including, but not limited to, personal injury, death, harassment, or intimidation. An EAP that details a monitoring service provider's responses to emergencies involving observers, monitors, or monitoring service provider personnel. The EAP shall include communications protocol and appropriate contact information in an emergency.

(4) *Application evaluation.* (i) NMFS shall review and evaluate each application submitted under paragraph (h)(3) of this section. Issuance of approval as a monitoring service provider shall be based on completeness of the application, and a determination by NMFS of the applicant's ability to perform the duties and responsibilities of a monitoring service provider, as demonstrated in the application information. A decision to approve or deny an application shall be made by NMFS within 15 business days of receipt of the application by NMFS.

(ii) If NMFS approves the application, the monitoring service provider's name will be added to the list of approved monitoring service providers found on the NMFS/FSB website specified in paragraph (h)(1) of this section, and in any outreach information to the industry. Approved monitoring service providers shall be notified in writing and provided with any information pertinent to its participation in the observer or monitor programs.

(iii) An application shall be denied if NMFS determines that the information provided in the application is not complete or the evaluation criteria are not met. NMFS shall notify the applicant in writing of any deficiencies in the application or information submitted in support of the application. An applicant who receives a denial of his or her application may present additional information to rectify the deficiencies specified in the written denial, provided such information is submitted to NMFS within 30 days of the applicant's receipt of the denial notification from NMFS. In the absence of additional information, and after 30 days from an applicant's receipt of a denial, a monitoring service provider is required to resubmit an application containing all of the information required under the application process specified in paragraph (h)(3) of this section to be re-considered for being added to the list of approved monitoring service providers.

(5) *Responsibilities of monitoring service providers.* (i) A monitoring service provider must provide observers or monitors certified by NMFS/FSB pursuant to paragraph (i) of this section for deployment in a fishery when contacted and contracted by the owner, operator, or vessel manager of a fishing vessel, unless the monitoring service provider refuses to deploy an observer or monitor on a requesting vessel for any of the reasons specified at paragraph (h)(5)(viii) of this section.

(ii) A monitoring service provider must provide to each of its observers or monitors:

(A) All necessary transportation, lodging costs and support for arrangements and logistics of travel for observers and monitors to and from the initial location of deployment, to all subsequent vessel assignments, to any debriefing locations, and for appearances in Court for monitoring-related trials as necessary;

(B) Lodging, per diem, and any other services necessary for observers or monitors assigned to a fishing vessel or to attend an appropriate NMFS/FSB training class;

(C) The required observer or monitor equipment, in accordance with equipment requirements listed on the NMFS/FSB website specified in paragraph (h)(1) of this section, prior to any deployment and/or prior to NMFS observer or monitor certification training; and

(D) Individually assigned communication equipment, in working order, such as a mobile phone, for all necessary communication. A monitoring service provider may alternatively compensate observers or monitors for the use of the observer's or monitor's personal mobile phone, or other device, for communications made in support of, or necessary for, the observer's or monitor's duties.

(iii) *Observer and monitor deployment logistics.* Each approved monitoring service provider must assign an available certified observer or monitor to a vessel upon request. Each approved monitoring service provider must be accessible 24 hours per day, 7 days per week, to enable an owner, operator, or manager of a vessel to secure monitoring coverage when requested. The telephone or other notification system must be monitored a minimum of four times daily to ensure rapid response to industry requests. Monitoring service providers approved under paragraph (h) of this section are required to report observer or monitor deployments to NMFS for the purpose of determining whether the predetermined coverage levels are being achieved in the appropriate fishery.

(iv) *Observer deployment limitations.* (A) A candidate observer's first several

deployments and the resulting data shall be immediately edited and approved after each trip by NMFS/FSB prior to any further deployments by that observer. If data quality is considered acceptable, the observer would be certified. For further information, see *https://www.nefsc.noaa.gov/fsb/training/.*

(B) For the purpose of coverage to meet SBRM requirements, unless alternative arrangements are approved by NMFS, a monitoring service provider must not deploy any NMFS-certified observer on the same vessel for more than two consecutive multi-day trips, and not more than twice in any given month for multi-day deployments.

(C) For the purpose of coverage to meet IFM requirements, a monitoring service provider may deploy any NMFS-certified observer or monitor on the same vessel for more than two consecutive multi-day trips and more than twice in any given month for multi-day deployments.

(v) C*ommunications with observers and monitors.* A monitoring service provider must have an employee responsible for observer or monitor activities on call 24 hours a day to handle emergencies involving observers or monitors or problems concerning observer or monitor logistics, whenever observers or monitors are at sea, stationed portside, in transit, or in port awaiting vessel assignment.

(vi) *Observer and monitor training requirements.* A request for a NMFS/FSB Observer or Monitor Training class must be submitted to NMFS/FSB 45 calendar days in advance of the requested training. The following information must be submitted to NMFS/FSB at least 15 business days prior to the beginning of the proposed training: A list of observer or monitor candidates; candidate resumes, cover letters and academic transcripts; and a statement signed by the candidate, under penalty of perjury, that discloses the candidate's criminal convictions, if any. A medical report certified by a physician for each candidate is required 7 business days prior to the first day of training. CPR/First Aid certificates and a final list of training candidates with candidate contact information (email, phone, number, mailing address and emergency contact information) are due 7 business days prior to the first day of training. NMFS may reject a candidate for training if the candidate does not meet the minimum qualification requirements as outlined by NMFS/FSB minimum eligibility standards for observers or monitors as described on the NMFS/FSB website.

(vii) *Reports and Requirements*—(A) Deployment reports. The monitoring service provider must report to NMFS/FSB when, where, to whom, and to what vessel an observer or monitor has been deployed, as soon as practicable, and according to requirements outlined on the NMFS/FSB website. The deployment report must be available and accessible to NMFS electronically 24 hours a day, 7 days a week. The monitoring service provider must ensure that the observer or monitor reports to NMFS the required electronic data, as described in the NMFS/FSB training. Electronic data submission protocols will be outlined in training and may include accessing government websites via personal computers/devices or submitting data through government issued electronics. The monitoring service provider shall provide the raw (unedited) data collected by the observer or monitor to NMFS at the specified time per program. For further information, see *https://www.nefsc.noaa.gov/fsb/scallop/*.

(B) *Safety refusals.* The monitoring service provider must report to NMFS any trip or landing that has been refused due to safety issues (*e.g.,* failure to hold a valid USCG Commercial Fishing Vessel Safety Examination Decal or to meet the safety requirements of the observer's or monitor's safety checklist) within 12 hours of the refusal.

(C) *Biological samples.* The monitoring service provider must ensure that biological samples, including whole marine mammals, sea turtles, sea birds, and fin clips or other DNA samples, are stored/handled properly and transported to NMFS within 5 days of landing. If transport to NMFS/FSB Observer Training Facility is not immediately available then whole animals requiring freezing shall be received by the nearest NMFS freezer facility within 24 hours of vessel landing.

(D) *Debriefing.* The monitoring service provider must ensure that the observer or monitor remains available to NMFS, either in-person or via phone, at NMFS' discretion, including NMFS Office for Law Enforcement, for debriefing for at least 2 weeks following any monitored trip. If requested by NMFS, an observer or monitor that is at sea during the 2-week period must contact NMFS upon his or her return. Monitoring service providers must pay for travel and land hours for any requested debriefings.

(E) *Availability report.* The monitoring service provider must report to NMFS any occurrence of inability to respond to an industry request for observer or monitor coverage due to the lack of available observers or monitors as soon as practicable if the provider is unable to respond to an industry request for monitoring coverage. Availability report must be available and accessible to NMFS electronically 24 hours a day, 7 days a week.

(F) *Incident reports.* The monitoring service provider must report possible observer or monitor harassment, discrimination, concerns about vessel safety or marine casualty, or observer or monitor illness or injury; and any information, allegations, or reports regarding observer or monitor conflict of interest or breach of the standards of behavior, to NMFS/FSB within 12 hours of the event or within 12 hours of learning of the event.

(G) *Status report.* The monitoring service provider must provide NMFS/FSB with an updated list of contact information for all observers or monitors that includes the identification number, name, mailing address, email address, phone numbers, homeports or fisheries/trip types assigned, and must include whether or not the observer or monitor is ''in service,'' indicating when the observer or monitor has requested leave and/or is not currently working for an industry-funded program. Any Federally contracted NMFS-certified observer not actively deployed on a vessel for 30 days will be placed on Leave of Absence (LOA) status (or as specified by NMFS/FSB according to most recent Information Technology Security Guidelines at *https://www.nefsc.noaa.gov/fsb/memos/.* Those Federally contracted NMFS-certified observers on LOA for 90 days or more will need to conduct an exit interview with NMFS/FSB and return any NMFS/FSB issued gear and Common Access Card (CAC), unless alternative arrangements are approved by NMFS/FSB. NMFS/FSB requires 2-week advance notification when a Federally contracted NMFS-certified observer is leaving the program so that an exit interview may be arranged and gear returned.

(H) *Vessel contract.* The monitoring service provider must submit to NMFS/FSB, if requested, a copy of each type of signed and valid contract (including all attachments, appendices, addendums, and exhibits incorporated into the contract) between the monitoring service provider and those entities requiring monitoring services.

(I) *Observer and monitor contract.* The monitoring service provider must submit to NMFS/FSB, if requested, a copy of each type of signed and valid contract (including all attachments, appendices, addendums, and exhibits incorporated into the contract) between

the monitoring service provider and specific observers or monitors.

(J) *Additional information.* The monitoring service provider must submit to NMFS/FSB, if requested, copies of any information developed and/or used by the monitoring service provider and distributed to vessels, observers, or monitors, such as informational pamphlets, payment notification, daily rate of monitoring services, description of observer or monitor duties, etc.

(viii) *Refusal to deploy an observer or monitor.* (A) A monitoring service provider may refuse to deploy an observer or monitor on a requesting fishing vessel if the monitoring service provider does not have an available observer or monitor within the required time and must report all refusals to NMFS/FSB.

(B) A monitoring service provider may refuse to deploy an observer or monitor on a requesting fishing vessel if the monitoring service provider has determined that the requesting vessel is inadequate or unsafe pursuant to the reasons described at § 600.746.

(C) The monitoring service provider may refuse to deploy an observer or monitor on a fishing vessel that is otherwise eligible to carry an observer or monitor for any other reason, including failure to pay for previous monitoring deployments, provided the monitoring service provider has received prior written confirmation from NMFS authorizing such refusal.

(6) *Limitations on conflict of interest.* A monitoring service provider:

(i) Must not have a direct or indirect interest in a fishery managed under Federal regulations, including, but not limited to, a fishing vessel, fish dealer, and/or fishery advocacy group (other than providing monitoring services);

(ii) Must assign observers or monitors without regard to any preference by representatives of vessels other than when an observer or monitor will be deployed for the trip that was selected for coverage; and

(iii) Must not solicit or accept, directly or indirectly, any gratuity, gift, favor, entertainment, loan, or anything of monetary value from anyone who conducts fishing or fishing related activities that are regulated by NMFS, or who has interests that may be substantially affected by the performance or nonperformance of the official duties of monitoring service providers.

(7) *Removal of monitoring service provider from the list of approved service providers.* A monitoring service provider that fails to meet the requirements, conditions, and responsibilities specified in paragraphs (h)(5) and (6) of this section shall be notified by NMFS, in writing, that it is subject to removal from the list of approved monitoring service providers. Such notification shall specify the reasons for the pending removal. A monitoring service provider that has received notification that it is subject to removal from the list of approved monitoring service providers may submit written information to rebut the reasons for removal from the list. Such rebuttal must be submitted within 30 days of notification received by the monitoring service provider that the monitoring service provider is subject to removal and must be accompanied by written evidence rebutting the basis for removal. NMFS shall review information rebutting the pending removal and shall notify the monitoring service provider within 15 days of receipt of the rebuttal whether or not the removal is warranted. If no response to a pending removal is received by NMFS, the monitoring service provider shall be automatically removed from the list of approved monitoring service providers. The decision to remove the monitoring service provider from the list, either after reviewing a rebuttal, or if no rebuttal is submitted, shall be the final decision of NMFS and the Department of Commerce. Removal from the list of approved monitoring service providers does not necessarily prevent such monitoring service provider from obtaining an approval in the future if a new application is submitted that demonstrates that the reasons for removal are remedied. Certified observers and monitors under contract with observer monitoring service provider that has been removed from the list of approved service providers must complete their assigned duties for any fishing trips on which the observers or monitors are deployed at the time the monitoring service provider is removed from the list of approved monitoring service providers. A monitoring service provider removed from the list of approved monitoring service providers is responsible for providing NMFS with the information required in paragraph (h)(5)(vii) of this section following completion of the trip. NMFS may consider, but is not limited to, the following in determining if a monitoring service provider may remain on the list of approved monitoring service providers:

(i) Failure to meet the requirements, conditions, and responsibilities of monitoring service providers specified in paragraphs (h)(5) and (h)(6) of this section;

(ii) Evidence of conflict of interest as defined under paragraph (h)(6) of this section;

(iii) Evidence of criminal convictions related to:

(A) Embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; or

(B) The commission of any other crimes of dishonesty, as defined by state law or Federal law, that would seriously and directly affect the fitness of an applicant in providing monitoring services under this section;

(iv) Unsatisfactory performance ratings on any Federal contracts held by the applicant; and

(v) Evidence of any history of decertification as either an observer, monitor, or monitoring service provider.

(i) *Observer or monitor certification.* (1) To be certified, employees or sub-contractors operating as observers or monitors for monitoring service providers approved under paragraph (h) of this section. In addition, observers must meet NMFS National Minimum Eligibility Standards for observers specified at the National Observer Program website: *https://www.nmfs.noaa.gov/op/pds/categories/scienceandtechnology.html.* For further information, see *https://www.st.nmfs.noaa.gov/observer-home/.*

(2) *Observer or monitor training.* In order to be deployed on any fishing vessel, a candidate observer or monitor must have passed an appropriate NMFS/FSB Observer Training course and must adhere to all NMFS/FSB program standards and policies (refer to website for program standards, *https://www.nefsc.noaa.gov/fsb/training/*). If a candidate fails training, the candidate and monitoring service provider shall be notified immediately by NMFS/FSB. Observer training may include an observer training trip, as part of the observer's training, aboard a fishing vessel with a trainer. Refer to the NMFS/FSB website for the required number of program specific observer and monitor training certification trips for full certification following training, *https://www.nefsc.noaa.gov/fsb/training/.*

(3) *Observer requirements.* All observers must:

(i) Have a valid NMFS/FSB fisheries observer certification pursuant to paragraph (i)(1) of this section;

(ii) Be physically and mentally capable of carrying out the responsibilities of an observer on board fishing vessels, pursuant to standards established by NMFS. Such standards are available from NMFS/FSB website specified in paragraph (h)(1) of this

section and shall be provided to each approved monitoring service provider;

(iii) Have successfully completed all NMFS-required training and briefings for observers before deployment, pursuant to paragraph (i)(2) of this section;

(iv) Hold a current Red Cross (or equivalence) CPR/First Aid certification;

(v) Accurately record their sampling data, write complete reports, and report accurately any observations relevant to conservation of marine resources or their environment; and

(vi) Report unsafe sampling conditions, pursuant to paragraph (m)(6) of this section.

(4) *Monitor requirements.* All monitors must:

(i) Hold a high school diploma or legal equivalent;

(ii) Have a valid NMFS/FSB certification pursuant to paragraph (i)(1) of this section;

(iii) Be physically and mentally capable of carrying out the responsibilities of a monitor on board fishing vessels, pursuant to standards established by NMFS. Such standards are available from NMFS/FSB website specified in paragraph (h)(1) of this section and shall be provided to each approved monitoring service provider;

(iv) Have successfully completed all NMFS-required training and briefings for monitors before deployment, pursuant to paragraph (i)(2) of this section;

(v) Hold a current Red Cross (or equivalence) CPR/First Aid certification if the monitor is to be employed as an at-sea monitor;

(vi) Accurately record their sampling data, write complete reports, and report accurately any observations relevant to conservation of marine resources or their environment; and

(vii) Report unsafe sampling conditions, pursuant to paragraph (m)(6) of this section.

(5) Probation and decertification. NMFS may review observer and monitor certifications and issue observer and monitor certification probation and/or decertification as described in NMFS policy found on the NMFS/FSB website specified in paragraph (h)(1) of this section.

(6) *Issuance of decertification.* Upon determination that decertification is warranted under paragraph (i)(5) of this section, NMFS shall issue a written decision to decertify the observer or monitor to the observer or monitor and approved monitoring service providers via certified mail at the observer's or monitor's most current address provided to NMFS. The decision shall identify whether a certification is revoked and shall identify the specific reasons for the action taken. Decertification is effective immediately as of the date of issuance, unless the decertification official notes a compelling reason for maintaining certification for a specified period and under specified conditions. Decertification is the final decision of NMFS and the Department of Commerce and may not be appealed.

(j) In the event that a vessel is requested by the Regional Administrator to carry a NMFS-certified fisheries observer pursuant to paragraph (a) of this section and is also selected to carry an at-sea monitor as part of an approved sector at-sea monitoring program specified in § 648.87(b)(1)(v) for the same trip, only the NMFS-certified fisheries observer is required to go on that particular trip.

(k) *Atlantic sea scallop observer program*—(1) *General.* Unless otherwise specified, owners, operators, and/or managers of vessels issued a Federal scallop permit under § 648.4(a)(2), and specified in paragraph (a) of this section, must comply with this section and are jointly and severally responsible for their vessel's compliance with this section. To facilitate the deployment of at-sea observers, all sea scallop vessels issued limited access and LAGC IFQ permits are required to comply with the additional notification requirements specified in paragraph (k)(2) of this section. When NMFS notifies the vessel owner, operator, and/or manager of any requirement to carry an observer on a specified trip in either an Access Area or Open Area as specified in paragraph (k)(3) of this section, the vessel may not fish for, take, retain, possess, or land any scallops without carrying an observer. Vessels may only embark on a scallop trip in open areas or Access Areas without an observer if the vessel owner, operator, and/or manager has been notified that the vessel has received a waiver of the observer requirement for that trip pursuant to paragraphs (k)(3) and (k)(4)(ii) of this section.

(2) *Vessel notification procedures—(i) Limited access vessels.* Limited access vessel owners, operators, or managers shall notify NMFS/FSB by telephone not more than 10 days prior to the beginning of any scallop trip of the time, port of departure, open area or specific Sea Scallop Access Area to be fished, and whether fishing as a scallop dredge, scallop trawl, or general category vessel.

(ii) *LAGC IFQ vessels.* LAGC IFQ vessel owners, operators, or managers must notify the NMFS/FSB by telephone by 0001 hr of the Thursday preceding the week (Sunday through Saturday) that they intend to start any open area or access area scallop trip and must include the port of departure, open area or specific Sea Scallop Access Area to be fished, and whether fishing as a scallop dredge, scallop trawl vessel. If selected, up to two trips that start during the specified week (Sunday through Saturday) can be selected to be covered by an observer. NMFS/FSB must be notified by the owner, operator, or vessel manager of any trip plan changes at least 48 hr prior to vessel departure.

(3) *Selection of scallop trips for observer coverage.* Based on predetermined coverage levels for various permit categories and areas of the scallop fishery that are provided by NMFS in writing to all observer service providers approved pursuant to paragraph (h) of this section, NMFS shall notify the vessel owner, operator, or vessel manager whether the vessel must carry an observer, or if a waiver has been granted, for the specified scallop trip, within 24 hr of the vessel owner's, operator's, or vessel manager's notification of the prospective scallop trip, as specified in paragraph (k)(2) of this section. Any request to carry an observer may be waived by NMFS. All waivers for observer coverage shall be issued to the vessel by VMS so as to have on-board verification of the waiver. A vessel may not fish in an area with an observer waiver confirmation number that does not match the scallop trip plan that was called in to NMFS. Confirmation numbers for trip notification calls are only valid for 48 hr from the intended sail date.

(4) *Procurement of observer services by scallop vessels.* (i) An owner of a scallop vessel required to carry an observer under paragraph (k)(3) of this section must arrange for carrying an observer certified through the observer training class operated by the NMFS/FSB from an observer service provider approved by NMFS under paragraph (h) of this section. The owner, operator, or vessel manager of a vessel selected to carry an observer must contact the observer service provider and must provide at least 48-hr notice in advance of the fishing trip for the provider to arrange for observer deployment for the specified trip. The observer service provider will notify the vessel owner, operator, or manager within 18 hr whether they have an available observer. A list of approved observer service providers shall be posted on the NMFS/FSB website at *https://www.nefsc.noaa.gov/femad/fsb/*. The observer service provider may take up to 48 hr to arrange for observer

deployment for the specified scallop trip.

(ii) An owner, operator, or vessel manager of a vessel that cannot procure a certified observer within 48 hr of the advance notification to the provider due to the unavailability of an observer may request a waiver from NMFS/FSB from the requirement for observer coverage for that trip, but only if the owner, operator, or vessel manager has contacted all of the available observer service providers to secure observer coverage and no observer is available. NMFS/FSB shall issue such a waiver within 24 hr, if the conditions of this paragraph (g)(4)(ii) are met. A vessel may not begin the trip without being issued a waiver.

(5) Owners of scallop vessels shall be responsible for paying the cost of the observer for all scallop trips on which an observer is carried onboard the vessel, regardless of whether the vessel lands or sells sea scallops on that trip, and regardless of the availability of set-aside for an increased possession limit or reduced DAS accrual rate. The owners of vessels that carry an observer may be compensated with a reduced DAS accrual rate for open area scallop trips or additional scallop catch per day in Sea Scallop Access Areas or additional catch per open area or access area trip for LAGC IFQ trips in order to help defray the cost of the observer, under the program specified in §§ 648.53 and 648.60.

(i) Observer service providers shall establish the daily rate for observer coverage on a scallop vessel on an Access Area trip or open area DAS or IFQ scallop trip consistent with paragraphs (k)(5)(i)(A) and (B), respectively, of this section.

(A) *Access Area trips.* (*1*) For purposes of determining the daily rate for an observed scallop trip on a limited access vessel in a Sea Scallop Access Area when that specific Access Area's observer set-aside specified in § 648.60(d)(1) has not been fully utilized, a service provider may charge a vessel owner for no more than the time an observer boards a vessel until the vessel disembarks (dock to dock), where ''day'' is defined as a 24-hr period, or any portion of a 24-hr period, regardless of the calendar day. For example, if a vessel with an observer departs on July 1 at 10 p.m. and lands on July 3 at 1 a.m., the time at sea equals 27 hr, which would equate to 2 full ''days.''

(*2*) For purposes of determining the daily rate in a specific Sea Scallop Access Area for an observed scallop trip on a limited access vessel taken after NMFS has announced the industry-funded observer set-aside in that specific Access Area has been fully utilized, a service provider may charge a vessel owner for no more than the time an observer boards a vessel until the vessel disembarks (dock to dock), where ''day'' is defined as a 24-hr period, and portions of the other days would be pro-rated at an hourly charge (taking the daily rate divided by 24). For example, if a vessel with an observer departs on July 1 at 10 p.m. and lands on July 3 at 1 a.m., the time spent at sea equals 27 hr, which would equate to 1 day and 3 hr.

(*3*) For purposes of determining the daily rate in a specific Sea Scallop Access Area for observed scallop trips on an LAGC vessel, regardless of the status of the industry-funded observer set-aside, a service provider may charge a vessel owner for no more than the time an observer boards a vessel until the vessel disembarks (dock to dock), where ''day'' is defined as a 24-hr period, and portions of the other days would be pro-rated at an hourly charge (taking the daily rate divided by 24). For example, if a vessel with an observer departs on July 1 at 10 p.m. and lands on July 3 at 1 a.m., the time spent at sea equals 27 hr, which would equate to 1 day and 3 hr.

(B) *Open area scallop trips.* For purposes of determining the daily rate for an observed scallop trip for DAS or LAGC IFQ open area trips, regardless of the status of the industry-funded observer set-aside, a service provider shall charge dock to dock where ''day'' is defined as a 24-hr period, and portions of the other days would be pro-rated at an hourly charge (taking the daily rate divided by 24). For example, if a vessel with an observer departs on the July 1st at 10 p.m. and lands on July 3rd at 1 a.m., the time at sea equals 27 hr, so the provider would charge 1 day and 3 hr.

(ii) NMFS shall determine any reduced DAS accrual rate and the amount of additional pounds of scallops per day fished in a Sea Scallop Access Area or on an open area LAGC IFQ trips for the applicable fishing year based on the economic conditions of the scallop fishery, as determined by best available information. Vessel owners and observer service providers shall be notified through the Small Entity Compliance Guide of any DAS accrual rate changes and any changes in additional pounds of scallops determined by the Regional Administrator to be necessary. NMFS shall notify vessel owners and observer providers of any adjustments.

(iii) Owners of scallop vessels shall pay observer service providers for observer services within 45 days of the end of a fishing trip on which an observer deployed.

(6) When the available DAS or TAC set-aside for observer coverage is exhausted, vessels shall still be required to carry an observer as specified in this section, and shall be responsible for paying for the cost of the observer, but shall not be authorized to harvest additional pounds or fish at a reduced DAS accrual rate.

(l) *NE multispecies observer coverage*—(1) *Pre-trip notification.* Unless otherwise specified in this paragraph (l), or notified by the Regional Administrator, the owner, operator, or manager of a vessel (*i.e.,* vessel manager or sector manager) issued a limited access NE multispecies permit that is fishing under a NE multispecies DAS or on a sector trip, as defined in this part, must provide advanced notice to NMFS of the vessel name, permit number, and sector to which the vessel belongs, if applicable; contact name and telephone number for coordination of observer deployment; date, time, and port of departure; and the vessel's trip plan, including area to be fished, whether a monkfish DAS will be used, and gear type to be used at least 48 hr prior to departing port on any trip declared into the NE multispecies fishery pursuant to § 648.10 or § 648.85, as instructed by the Regional Administrator, for the purposes of selecting vessels for observer deployment. For trips lasting 48 hr or less in duration from the time the vessel leaves port to begin a fishing trip until the time the vessel returns to port upon the completion of the fishing trip, the vessel owner, operator, or manager may make a weekly notification rather than trip-by-trip calls. For weekly notifications, a vessel must notify NMFS by 0001 hr of the Friday preceding the week (Sunday through Saturday) that it intends to complete at least one NE multispecies DAS or sector trip during the following week and provide the date, time, port of departure, area to be fished, whether a monkfish DAS will be used, and gear type to be used for each trip during that week. Trip notification calls must be made no more than 10 days in advance of each fishing trip. The vessel owner, operator, or manager must notify NMFS of any trip plan changes at least 24 hr prior to vessel departure from port. A vessel may not begin the trip without being issued an observer notification or a waiver by NMFS.

(2) *Vessel selection for observer coverage.* NMFS shall notify the vessel owner, operator, or manager whether the vessel must carry an observer, or if a waiver has been granted, for the

specified trip within 24 hr of the vessel owner's, operator's or manager's notification of the prospective trip, as specified in paragraph (l)(1) of this section. All trip notifications shall be issued a unique confirmation number. A vessel may not fish on a NE multispecies DAS or sector trip with an observer waiver confirmation number that does not match the trip plan that was called in to NMFS. Confirmation numbers for trip notification calls are valid for 48 hr from the intended sail date. If a trip is interrupted and returns to port due to bad weather or other circumstance beyond the operator's control, and goes back out within 48 hr, the same confirmation number and observer status remains. If the layover time is greater than 48 hr, a new trip notification must be made by the operator, owner, or manager of the vessel.

(3) *NE multispecies monitoring program goals and objectives.* Monitoring programs established for the NE multispecies are to be designed and evaluated consistent with the following goals and objectives:

(i) Improve documentation of catch:

(A) Determine total catch and effort, for each sector and common pool, of target or regulated species; and

(B) Achieve coverage level sufficient to minimize effects of potential monitoring bias to the extent possible while maintaining as much flexibility as possible to enhance fleet viability.

(ii) Reduce the cost of monitoring:

(A) Streamline data management and eliminate redundancy;

(B) Explore options for cost-sharing and deferment of cost to industry; and

(C) Recognize opportunity costs of insufficient monitoring.

(iii) Incentivize reducing discards:

(A) Determine discard rate by smallest possible strata while maintaining cost-effectiveness; and

(B) Collect information by gear type to accurately calculate discard rates.

(iv) Provide additional data streams for stock assessments:

(A) Reduce management and/or biological uncertainty; and

(B) Perform biological sampling if it may be used to enhance accuracy of mortality or recruitment calculations.

(v) Enhance safety of monitoring program.

(vi) Perform periodic review of monitoring program for effectiveness.

(m) *Atlantic herring monitoring coverage*—(1) *Monitoring requirements.* (i) In addition to the requirement for any vessel holding an Atlantic herring permit to carry a NMFS-certified observer described in paragraph (a) of this section, vessels issued an All Areas or Areas 2/3 Limited Access Herring Permit are subject to industry-funded monitoring (IFM) requirements on declared Atlantic herring trips, unless the vessel is carrying a NMFS-certified observer to fulfill Standard Bycatch Reporting Methodology requirements. An owner of a midwater trawl vessel, required to carry a NMFS-certified observer when fishing in Northeast Multispecies Closed Areas at § 648.202(b), may purchase an IFM high volume fisheries (HVF) observer to access Closed Areas on a trip-by-trip basis. General requirements for IFM programs in New England Council FMPs are specified in paragraph (g) of this section. Possible IFM monitoring for the Atlantic herring fishery includes NMFS-certified observers, at-sea monitors, and electronic monitoring and portside samplers, as defined in § 648.2.

(A) IFM HVF observers shall collect the following information:

(*1*) Fishing gear information (*e.g.,* size of nets, mesh sizes, and gear configurations);

(*2*) Tow-specific information (*e.g.,* depth, water temperature, wave height, and location and time when fishing begins and ends);

(*3*) Species, weight, and disposition of all retained and discarded catch (fish, sharks, crustaceans, invertebrates, and debris) on observed hauls;

(*4*) Species, weight, and disposition of all retained catch on unobserved hauls;

(*5*) Actual catch weights whenever possible, or alternatively, weight estimates derived by sub-sampling;

(*6*) Whole specimens, photos, length information, and biological samples (*e.g.,* scales, otoliths, and/or vertebrae from fish, invertebrates, and incidental takes);

(*7*) Information on interactions with protected species, such as sea turtles, marine mammals, and sea birds; and

(*8*) Vessel trip costs (*i.e.,* operational costs for trip including food, fuel, oil, and ice).

(B) IFM HVF at-sea monitors shall collect the following information:

(*1*) Fishing gear information (*e.g.,* size of nets, mesh sizes, and gear configurations);

(*2*) Tow-specific information (*e.g.,* depth, water temperature, wave height, and location and time when fishing begins and ends);

(*3*) Species, weight, and disposition of all retained and discarded catch (fish, sharks, crustaceans, invertebrates, and debris) on observed hauls;

(*4*) Species, weight, and disposition of all retained catch on unobserved hauls;

(*5*) Actual catch weights whenever possible, or alternatively, weight estimates derived by sub-sampling;

(*6*) Length data, along with whole specimens and photos to verify species identification, on retained and discarded catch;

(*7*) Information on and biological samples from interactions with protected species, such as sea turtles, marine mammals, and sea birds; and

(*8*) Vessel trip costs (*i.e.,* operational costs for trip including food, fuel, oil, and ice).

(*9*) The New England Council may recommend that at-sea monitors collect additional biological information upon request. Revisions to the duties of an at-sea monitor, such that additional biological information would be collected, may be done via a framework adjustment. At-sea monitor duties may also be revised to collect additional biological information by considering the issue at a public meeting, where public comment is accepted, and requesting NMFS to publish a notice or rulemaking revising the duties for at-sea monitors. NMFS shall implement revisions to at-sea monitor duties in accordance with the APA.

(C) IFM Portside samplers shall collect the following information:

(*1*) Species, weight, and disposition of all retained catch (fish, sharks, crustaceans, invertebrates, and debris) on sampled trips;

(*2*) Actual catch weights whenever possible, or alternatively, weight estimates derived by sub-sampling; and

(*3*) Whole specimens, photos, length information, and biological samples (*i.e.,* scales, otoliths, and/or vertebrae from fish, invertebrates, and incidental takes).

(ii) Vessels issued an All Areas or Areas 2/3 Limited Access Herring Permit are subject to IFM at-sea monitoring coverage. If the New England Council determines that electronic monitoring, used in conjunction with portside sampling, is an adequate substitute for at-sea monitoring on vessels fishing with midwater trawl gear, and it is approved by the Regional Administrator as specified in (m)(1)(iii), then owners of vessels issued an All Areas or Areas 2/3 Limited Access Herring Permit may choose either IFM at-sea monitoring coverage or IFM electronic monitoring and IFM portside sampling coverage, pursuant with requirements in paragraphs (h) and (i) of this section. Once owners of vessels issued an All Areas or Areas 2/3 Limited Access Herring Permit may choose an IFM monitoring type, vessel owners must select one IFM monitoring type per fishing year and notify NMFS of their selected IFM monitoring type via selection form six months in advance of

the beginning of the fishing year. NMFS will provide vessels owners with selection forms no later than June 1 of each year.

(A) In a future framework adjustment, the New England Council may consider if electronic monitoring and portside sampling coverage is an adequate substitute for at-sea monitoring coverage for Atlantic herring vessels that fish with purse seine and/or bottom trawl gear.

(B) IFM coverage targets for the Atlantic herring fishery are calculated by NMFS, in consultation with New England Council staff.

(C) If IFM coverage targets do not match for the Atlantic herring and Atlantic mackerel fisheries, then the higher IFM coverage target would apply on trips declared into both fisheries.

(D) Vessels intending to land less than 50 mt of Atlantic herring are exempt from IFM requirements, provided that the vessel requests and is issued a waiver prior to departing on that trip, consistent with paragraphs (m)(2)(iii)(B) and (m)(3) of this section. Vessels issued a waiver must land less than 50 mt of Atlantic herring on that trip.

(E) A wing vessel (*i.e.,* midwater trawl vessel pair trawling with another midwater trawl vessel) is exempt from IFM requirements on a trip, provided the wing vessel does not possess or land any fish on that trip and requests and is issued a waiver prior to departing on that trip, consistent with paragraphs (m)(2)(iii)(C) and (m)(3) of this section.

(F) Two years after implementation of IFM in the Atlantic herring fishery, the New England Council will examine the results of any increased coverage in the Atlantic herring fishery and consider if adjustments to the IFM coverage targets are warranted.

(iii) Electronic monitoring and portside sampling coverage may be used in place of at-sea monitoring coverage in the Atlantic herring fishery, if the electronic monitoring technology is deemed sufficient by the New England Council. The Regional Administrator, in consultation with the New England Council, may approve the use of electronic monitoring and portside sampling for the Atlantic herring fishery in a manner consistent with the Administrative Procedure Act, with final measures published in the **Federal Register**. A vessel electing to use electronic monitoring and portside sampling in lieu of at-sea monitoring must develop a vessel monitoring plan to implement an electronic monitoring and portside sampling program that NMFS determines is sufficient for monitoring catch, discards and slippage events. The electronic monitoring and portside sampling program shall be reviewed and approved by NMFS as part of a vessel's monitoring plan on a yearly basis in a manner consistent with the Administrative Procedure Act.

(iv) Owners, operators, or managers of vessels issued an All Areas Limited Access Herring Permit or Areas 2/3 Limited Access Herring Permit are responsible for their vessel's compliance with IFM requirements. When NMFS notifies a vessel owner, operator, or manager of the requirement to have monitoring coverage on a specific declared Atlantic herring trip, that vessel may not fish for, take, retain, possess, or land any Atlantic herring without the required monitoring coverage. Vessels may only embark on a declared Atlantic herring trip without the required monitoring coverage if the vessel owner, operator, and/or manager has been notified that the vessel has received a waiver for the required monitoring coverage for that trip, pursuant to paragraphs (m(2)(iii)(B) and (C) and paragraph (m)(3) of this section.

(v) To provide the required IFM coverage aboard declared Atlantic herring trips, NMFS-certified observers and monitors must hold a high volume fisheries certification from NMFS/FSB. See details of high volume certification at *https://www.nefsc.noaa.gov/fsb/training/.*

(2) *Pre-trip notification.* (i) At least 48 hr prior to the beginning of any trip on which a vessel may harvest, possess, or land Atlantic herring, the owner, operator, or manager of a vessel issued a Limited Access Herring Permit, or a vessel issued an Areas 2/3 Open Access Herring Permit on a declared herring trip, or a vessel issued an All Areas Open Access Herring Permit fishing with midwater trawl gear in Management Areas 1A, 1B, and/or 3, as defined in § 648.200(f)(1) and (3), or a vessel acting as a herring carrier must notify NMFS/FSB of the trip.

(ii) The notification to NMFS/FSB must include the following information: Vessel name or names in the cases of paired midwater trawlers, permit category, and permit number; contact name for coordination of monitoring coverage; telephone number for contact; the date, time, and port of departure; gear type; target species; trip length and port of landing; and intended area of fishing.

(iii) For vessels issued an All Areas Limited Access Herring Permit or Areas 2/3 Limited Access Herring Permit, the trip notification must also include the following requests, if appropriate:

(A) For IFM NMFS-certified observer coverage aboard vessels fishing with midwater trawl gear to access the Northeast Multispecies Closed Areas, consistent with requirements at § 648.202(b), at any point during the trip;

(B) For a waiver of IFM requirements on a trip that shall land less than 50 mt of Atlantic herring; and

(C) For a waiver of IFM requirements on trip by a wing vessel as described in paragraph (m)(ii)(E) of this section.

(iv) Trip notification must be provided no more than 9 days in advance of each fishing trip. The vessel owner, operator, or manager must notify NMFS/FSB of any trip plan changes at least 12 hr prior to vessel departure from port.

(3) *Selection of trips for monitoring coverage.* NMFS shall notify the owner, operator, and/or manager of a vessel with an Atlantic herring permit whether a declared Atlantic herring trip requires coverage by a NMFS-funded observer or whether a trip requires IFM coverage. NMFS shall also notify the owner, operator, and/or manager of vessel if a waiver has been granted, either for the NMFS-funded observer or for IFM coverage, as specified in paragraph (m)(2) of this section. All waivers for monitoring coverage shall be issued to the vessel by VMS so that there is an on-board verification of the waiver. A waiver is invalid if the fishing behavior on that trip is inconsistent with the terms of the waiver.

(4) *Procurement of monitoring services by Atlantic herring vessels.* (i) An owner of an Atlantic herring vessel required to have monitoring under paragraph (m)(3) of this section must arrange for monitoring by an individual certified through training classes operated by the NMFS/FSB and from a monitoring service provider approved by NMFS under paragraph (h) of this section. The owner, operator, or vessel manager of a vessel selected for monitoring must contact a monitoring service provider prior to the beginning of the trip and the monitoring service provider will notify the vessel owner, operator, or manager whether monitoring is available. A list of approved monitoring service providers shall be posted on the NMFS/FSB website at *https://www.nefsc.noaa.gov/femad/fsb/.*

(ii) An owner, operator, or vessel manager of a vessel that cannot procure monitoring due to the unavailability of monitoring may request a waiver from NMFS/FSB from the requirement for monitoring on that trip, but only if the owner, operator, or vessel manager has contacted all of the available monitoring service providers to secure monitoring and no monitoring is available. NMFS/FSB shall issue a waiver, if the

conditions of this paragraph (m)(4)(ii) are met. A vessel without monitoring coverage may not begin a declared Atlantic herring trip without having been issued a waiver.

(iii) Vessel owners shall pay service providers for monitoring services within 45 days of the end of a fishing trip that was monitored.

(5) When vessels issued limited access herring permits are working cooperatively in the Atlantic herring fishery, including pair trawling, purse seining, and transferring herring at-sea, each vessel must provide to observers or monitors, when requested, the estimated weight of each species brought on board and the estimated weight of each species released on each tow.

(6) *Sampling requirements for NMFS-certified observer and monitors.* In addition to the requirements at § 648.11(d)(1) through (7), an owner or operator of a vessel issued a limited access herring permit on which a NMFS-certified observer or monitor is embarked must provide observers or monitors:

(i) A safe sampling station adjacent to the fish deck, including: A safety harness, if footing is compromised and grating systems are high above the deck; a safe method to obtain samples; and a storage space for baskets and sampling gear.

(ii) Reasonable assistance to enable observers or monitors to carry out their duties, including but not limited to assistance with: Obtaining and sorting samples; measuring decks, codends, and holding bins; collecting bycatch when requested by the observers or monitors; and collecting and carrying baskets of fish when requested by the observers or monitors.

(iii) Advance notice when pumping will be starting; when sampling of the catch may begin; and when pumping is coming to an end.

(iv) Visual access to the net, the codend of the net, and the purse seine bunt and any of its contents after pumping has ended and before the pump is removed from the net. On trawl vessels, the codend including any remaining contents must be brought on board, unless bringing the codend on board is not possible. If bringing the codend on board is not possible, the vessel operator must ensure that the observer or monitor can see the codend and its contents as clearly as possible before releasing its contents.

(7) *Measures to address slippage.* (i) No vessel issued a limited access herring permit may slip catch, as defined at § 648.2, except in the following circumstances:

(A) The vessel operator has determined, and the preponderance of available evidence indicates that, there is a compelling safety reason; or

(B) A mechanical failure, including gear damage, precludes bringing some or all of the catch on board the vessel for inspection; or

(C) The vessel operator determines that pumping becomes impossible as a result of spiny dogfish clogging the pump intake. The vessel operator shall take reasonable measures, such as strapping and splitting the net, to remove all fish which can be pumped from the net prior to release.

(ii) Vessels may make test tows without pumping catch on board if the net is re-set without releasing its contents provided that all catch from test tows is available to the observer to sample when the next tow is brought on board for sampling.

(iii) If a vessel issued any limited access herring permit slips catch, the vessel operator must report the slippage event on the Atlantic herring daily VMS catch report and indicate the reason for slipping catch. Additionally, the vessel operator must complete and sign a Released Catch Affidavit detailing: The vessel name and permit number; the VTR serial number; where, when, and the reason for slipping catch; the estimated weight of each species brought on board or slipped on that tow. A completed affidavit must be submitted to NMFS within 48 hr of the end of the trip.

(iv) If a vessel issued an All Areas or Areas 2/3 Limited Access Herring permit slips catch for any of the reasons described in paragraph (m)(4)(i) of this section when an observer or monitor is aboard, the vessel operator must move at least 15 nm (27.78 km) from the location of the slippage event before deploying any gear again, and must stay at least 15 nm (27.78 km) away from the slippage event location for the remainder of the fishing trip.

(v) If a vessel issued an All Areas or Areas 2/3 Limited Access Herring permit slips catch for any reason on a trip selected by NMFS for portside sampling, pursuant to paragraph (m)(3) of this section, the vessel operator must move at least 15 nm (27.78 km) from the location of the slippage event before deploying any gear again, and must stay at least 15 nm (27.78 km) away from the slippage event location for the remainder of the fishing trip.

(vi) If catch is slipped by a vessel issued an All Areas or Areas 2/3 Limited Access Herring permit for any reason not described in paragraph (m)(4)(i) of this section when an observer or monitor is aboard, the vessel operator must immediately terminate the trip and return to port. No fishing activity may occur during the return to port.

(n) *Atlantic mackerel, squid, and butterfish observer coverage*—(1) *Pre-trip notification.* (i) A vessel issued a limited access Atlantic mackerel permit, as specified at § 648.4(a)(5)(iii), must, for the purposes of observer deployment, have a representative provide notice to NMFS of the vessel name, vessel permit number, contact name for coordination of observer deployment, telephone number or email address for contact; and the date, time, port of departure, gear type, and approximate trip duration, at least 48 hr, but no more than 10 days, prior to beginning any fishing trip, unless it complies with the possession restrictions in paragraph (n)(1)(iii) of this section.

(ii) A vessel that has a representative provide notification to NMFS as described in paragraph (n)(1)(i) of this section may only embark on a mackerel trip without an observer if a vessel representative has been notified by NMFS that the vessel has received a waiver of the observer requirement for that trip. NMFS shall notify a vessel representative whether the vessel must carry an observer, or if a waiver has been granted, for the specific mackerel trip, within 24 hr of the vessel representative's notification of the prospective mackerel trip, as specified in paragraph (n)(1)(i) of this section. Any request to carry an observer may be waived by NMFS. A vessel that fishes with an observer waiver confirmation number that does not match the mackerel trip plan that was called in to NMFS is prohibited from fishing for, possessing, harvesting, or landing mackerel except as specified in paragraph (n)(1)(iii) of this section. Confirmation numbers for trip notification calls are only valid for 48 hr from the intended sail date.

(iii) *Trip limits:* A vessel issued a limited access mackerel permit, as specified in § 648.4(a)(5)(iii), that does not have a representative provide the trip notification required in paragraph (n)(1)(i) of this section is prohibited from fishing for, possessing, harvesting, or landing more than 20,000 lb (9.07 mt) of mackerel per trip at any time, and may only land mackerel once on any calendar day, which is defined as the 24-hr period beginning at 0001 hours and ending at 2400 hours.

(iv) If a vessel issued a limited access Atlantic mackerel permit, as specified in § 648.4(a)(5)(iii), intends to possess, harvest, or land more than 20,000 lb (9.07 mt) of mackerel per trip or per

calendar day, and has a representative notify NMFS of an upcoming trip, is selected by NMFS to carry an observer, and then cancels that trip, the representative is required to provide notice to NMFS of the vessel name, vessel permit number, contact name for coordination of observer deployment, and telephone number or email address for contact, and the intended date, time, and port of departure for the cancelled trip prior to the planned departure time. In addition, if a trip selected for observer coverage is cancelled, then that vessel is required to carry an observer, provided an observer is available, on its next trip.

(2) *Sampling requirements for limited access Atlantic mackerel and longfin squid/butterfish moratorium permit holders.* In addition to the requirements in paragraphs (d)(1) through (7) of this section, an owner or operator of a vessel issued a limited access Atlantic mackerel or longfin squid/butterfish moratorium permit on which a NMFS-certified observer is embarked must provide observers:

(i) A safe sampling station adjacent to the fish deck, including: A safety harness, if footing is compromised and grating systems are high above the deck; a safe method to obtain samples; and a storage space for baskets and sampling gear.

(ii) Reasonable assistance to enable observers to carry out their duties, including but not limited to assistance with: Obtaining and sorting samples; measuring decks, codends, and holding bins; collecting bycatch when requested by the observers; and collecting and carrying baskets of fish when requested by the observers.

(iii) Advance notice when pumping will be starting; when sampling of the catch may begin; and when pumping is coming to an end.

(3) *Measures to address slippage.* (i) No vessel issued a limited access Atlantic mackerel permit or a longfin squid/butterfish moratorium permit may slip catch, as defined at § 648.2, except in the following circumstances:

(A) The vessel operator has determined, and the preponderance of available evidence indicates that, there is a compelling safety reason; or

(B) A mechanical failure, including gear damage, precludes bringing some or all of the catch on board the vessel for sampling and inspection; or

(C) The vessel operator determines that pumping becomes impossible as a result of spiny dogfish clogging the pump intake. The vessel operator shall take reasonable measures, such as strapping and splitting the net, to remove all fish that can be pumped from the net prior to release.

(ii) If a vessel issued any limited access Atlantic mackerel permit slips catch, the vessel operator must report the slippage event on the Atlantic mackerel and longfin squid daily VMS catch report and indicate the reason for slipping catch. Additionally, vessels issued a limited Atlantic mackerel permit or a longfin squid/butterfish moratorium permit, the vessel operator must complete and sign a Released Catch Affidavit detailing: The vessel name and permit number; the VTR serial number; where, when, and the reason for slipping catch; the estimated weight of each species brought on board or slipped on that tow. A completed affidavit must be submitted to NMFS within 48 hr of the end of the trip.

(iii) If a vessel issued a limited access Atlantic mackerel permit slips catch for any of the reasons described in paragraph (n)(3)(i) of this section, the vessel operator must move at least 15 nm (27.8 km) from the location of the slippage event before deploying any gear again, and must stay at least 15 nm (27.8 km) from the slippage event location for the remainder of the fishing trip.

(iv) If catch is slipped by a vessel issued a limited access Atlantic mackerel permit for any reason not described in paragraph (n)(3)(i) of this section, the vessel operator must immediately terminate the trip and return to port. No fishing activity may occur during the return to port.

■ 5. Amend § 648.14 by revising paragraphs (e), (r)(1)(vi)(A), (r)(2)(v), and (r)(2)(ix) through (xi) and adding paragraphs (r)(2)(xiii) and (xiv) to read as follows:

§ 648.14 Prohibitions.

* * * * *

(e) *Observer program.* It is unlawful for any person to do any of the following:

(1) Assault, resist, oppose, impede, harass, intimidate, or interfere with or bar by command, impediment, threat, or coercion any NMFS-certified observer or monitor conducting his or her duties; any authorized officer conducting any search, inspection, investigation, or seizure in connection with enforcement of this part; any official designee of the Regional Administrator conducting his or her duties, including those duties authorized in § 648.7(g).

(2) Refuse monitoring coverage by a NMFS-certified observer or monitor if selected for monitoring coverage by the Regional Administrator or the Regional Administrator's designee.

(3) Fail to provide information, notification, accommodations, access, or reasonable assistance to either a NMFS-certified observer or monitor conducting his or her duties as specified in § 648.11.

(4) Submit false or inaccurate data, statements, or reports.

* * * * *

(r) * * *

(1) * * *

(vi) * * *

(A) For the purposes of observer deployment, fail to notify NMFS at least 48 hr prior to departing on a declared herring trip with a vessel issued an All Areas Limited Access Herring Permit and/or an Area 2 and 3 Limited Access Herring Permit and fishing with midwater trawl or purse seine gear, or on a trip with a vessel issued a Limited Access Incidental Catch Herring Permit and/or an Open Access Herring Permit that is fishing with midwater trawl gear in Management Areas 1A, 1B, and/or 3, as defined in § 648.200(f)(1) and (3), pursuant to the requirements in § 648.80(d) and (e).

* * * * *

(2) * * *

(v) Fish with midwater trawl gear in any Northeast Multispecies Closed Area, as defined in § 648.81(a)(3),(4), (5), and (c)(3) and (4), without a NMFS-certified observer on board, if the vessel has been issued an Atlantic herring permit.

* * *

(ix) For vessels with All Areas or Areas 2/3 Limited Access Herring Permits, fail to move 15 nm (27.78 km), as required by §§ 648.11(m)(8)(iv) and (v) and § 648.202(b)(4)(iv).

(x) For vessels with All Areas or Areas 2/3 Limited Access Herring Permits, fail to immediately return to port, as required by § 648.11(m)(8)(vi) and § 648.202(b)(4)(iv).

(xi) Fail to complete, sign, and submit a Released Catch Affidavit as required by § 648.11(m)(8)(iii) and § 648.202(b)(4)(ii).

* * *

(xiii) For vessels with All Areas or Areas 2/3 Limited Access Herring Permits, fail to comply with industry-funded monitoring requirements at § 648.11(m).

(xiv) For a vessel with All Areas or Areas 2/3 Limited Access Herring Permit, fail to comply with its NMFS-approved vessel monitoring plan requirements, as described at § 648.11(m).

* * * * *

■ 6. In § 648.80 revise paragraph (d)(5) and (e)(5) to read as follows:

§ 648.80 NE Multispecies regulated mesh areas and restrictions on gear and methods of fishing.

* * * * *

(d) * * *

(5) To fish for herring under this exemption, a vessel issued an All Areas Limited Access Herring Permit and/or an Areas 2 and 3 Limited Access Herring Permit fishing on a declared herring trip, or a vessel issued a Limited Access Incidental Catch Herring Permit and/or an Open Access Herring Permit fishing with midwater trawl gear in Management Areas 1A, 1B, and/or 3, as defined in § 648.200(f)(1) and (3), must provide notice of the following information to NMFS at least 48 hr prior to beginning any trip into these areas for the purposes of observer deployment: Vessel name; contact name for coordination of observer deployment; telephone number for contact; the date, time, and port of departure; and

* * * * *

(e) * * *

(5) To fish for herring under this exemption, vessels that have an All Areas Limited Access Herring Permit and/or an Areas 2 and 3 Limited Access Herring Permit must provide notice to NMFS of the vessel name; contact name for coordination of observer deployment; telephone number for contact; and the date, time, and port of departure, at least 48 hr prior to beginning any trip into these areas for the purposes of observer deployment; and

* * * * *

■ 7. In § 648.86 revise paragraph (a)(3)(ii)(A)(*1*) to read as follows:

§ 648.86 NE Multispecies possession restrictions.

* * * * *

(a) * * *

(3) * * *

(ii) * * *

(A) * * *

(*1*) 648.86(a)(3)(ii) *Haddock incidental catch cap.* (A)(*1*) When the Regional Administrator has determined that the incidental catch allowance for a given haddock stock, as specified in § 648.90(a)(4)(iii)(D), has been caught, no vessel issued an Atlantic herring permit and fishing with midwater trawl gear in the applicable stock area, *i.e.,* the Herring GOM Haddock Accountability Measure (AM) Area or Herring GB Haddock AM Area, as defined in paragraphs (a)(3)(ii)(A)(*2*) and (*3*) of this section, may fish for, possess, or land herring in excess of 2,000 lb (907.2 kg) per trip in or from that area, unless all herring possessed and landed by the vessel were caught outside the applicable AM Area and the vessel's gear is stowed and not available for immediate use as defined in § 648.2 while transiting the AM Area. Upon this determination, the haddock possession limit is reduced to 0 lb (0 kg) for a vessel issued a Federal Atlantic herring permit and fishing with midwater trawl gear or for a vessel issued an All Areas Limited Access Herring Permit and/or an Areas 2 and 3 Limited Access Herring Permit fishing on a declared herring trip, regardless of area fished or gear used, in the applicable AM area, unless the vessel also possesses a NE multispecies permit and is operating on a declared (consistent with § 648.10(g)) NE multispecies trip. In making this determination, the Regional Administrator shall use haddock catches observed by NMFS-certified observers or monitors by herring vessel trips using midwater trawl gear in Management Areas 1A, 1B, and/or 3, as defined in § 648.200(f)(1) and (3), expanded to an estimate of total haddock catch for all such trips in a given haddock stock area.

* * * * *

§§ 648.10, 648.14, 648.51, 648.59, 648.80, and 648.86 [Amended]

■ 8. In the table below, for each section indicated in the left column, remove the text indicated in the middle column from wherever it appears in the section, and add the text indicated in the right column:

Section	Remove	Add
648.10(f)(4)	NMFS-approved	NMFS-certified.
648.14(i)(3)(ix)	NMFS-approved	NMFS-certified.
648.14(i)(3)(ix)(C)	648.11(g)	648.11(k).
648.14(k)(2)(iii)	648.11(k)	648.11(l).
648.14(k)(2)(iv)	648.11(k)	648.11(l).
648.51(c)(4)	648.11(g)	648.11(k).
648.51(e)(3)(iii)	648.11(g)	648.11(k).
648.59(b)(2)	648.11(g)	648.11(k).
648.80(d)(3)	NMFS-approved sea sampler/observer	NMFS-certified observer.
648.80(e)(2)(ii)	NMFS-approved sea sampler/observer	NMFS-certified observer.
648.86(a)(3)(ii)	NMFS-approved	NMFS-certified.
648.202(b)(4)(iv)	648.11(m)(4)(iv) and (v)	648.11(m)(4)(iv) and (vi).

[FR Doc. 2018–24087 Filed 11–6–18; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 83, No. 216

Wednesday, November 7, 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

Rural Utilities Service

Information Collection Activity; Comment Request

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended), the United States Department of Agriculture (USDA) Rural Development administers rural utilities programs through the Rural Utilities Service (RUS). The USDA Rural Development invites comments on the following information collections for which the Agency intends to request approval from the Office of Management and Budget (OMB).

DATES: Comments on this notice must be received by January 7, 2019.

FOR FURTHER INFORMATION CONTACT: Thomas P. Dickson, Rural Development Innovation Center, 1400 Independence Avenue SW, STOP 1522, Room 5164, South Building, Washington, DC 20250–1522. Telephone: (202) 690–4492. Email: *Thomas.Dickson@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION: The Office of Management and Budget's (OMB) regulation (5 CFR 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities [see 5 CFR 1320.8(d)]. This notice identifies information collections that RUS is submitting to OMB for extension. Comments are invited on: (a) Whether this collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of appropriate automated, electronic, mechanical or other technological collection techniques or other forms of information technology.

Comments may be sent by any of the following methods:

- *Mail:* Thomas P. Dickson, Rural Development Innovation Center, 1400 Independence Avenue SW, STOP 1522, Room 5164, South Building, Washington, DC 20250–1522. Telephone: (202) 690–4492. Email: *Thomas.Dickson@wdc.usda.gov.*
- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Follow the instructions for submitting comments.

Title: Extensions of Payments of Principal and Interest.

OMB Control Number: 0572–0123.

Type of Request: Extension of a currently approved information collection.

Abstract: This collection of information describes information procedures which borrowers must follow in order to request extensions of principal and interest. Authority for these is contained in section 12 of the Rural Electrification Act of 1936 (REAct), as amended and in section 236 of the ''Disaster Relief Act of 1970'' (Pub. L. 91–606), as amended by the Department of Agriculture Reorganization Act of 1994 (Pub. L. 103–354). Eligible purposes include financial hardship, energy resource conservation (ERC) loans, renewable energy projects, distributed generation projects, and contribution-in-aid of construction. These procedures are codified at 7 CFR part 1721, subpart B.

Estimate of Burden: Public reporting for this collection of information is estimated to average 4.71 hours per response.

Respondents: Not-for-profit institutions.

Estimated Number of Respondents: 7.

Estimated Number of Responses per Respondent: 1.14.

Estimated Total Annual Burden on Respondents: 61 hours.

Copies of this information collection can be obtained from Robin M. Jones, Innovation Center, at (202) 772–1172, Email: *robin.m.jones@usda.gov.*

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

Dated: November 1, 2018.

Christopher A. McLean,

Acting Administrator, Rural Utilities Service.

[FR Doc. 2018–24352 Filed 11–6–18; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Information Collection Activity; Comment Request

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the United States Department of Agriculture (USDA) Rural Utilities Service (RUS) invites comments on this information collection for which the Agency intends to request approval from the Office of Management and Budget (OMB).

DATES: Comments on this notice must be received by January 7, 2019.

FOR FURTHER INFORMATION CONTACT: Thomas P. Dickson, Rural Development Innovation Center, 1400 Independence Avenue SW, STOP 1522, Room 5164, South Building, Washington, DC 20250–1522. Telephone: (202) 690–4492. Email: *Thomas.Dickson@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION: The Office of Management and Budget's (OMB) regulation (5 CFR 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities [see 5 CFR 1320.8(d)]. This notice identifies information collections that RUS is submitting to OMB for revision. Comments are invited on: (a) Whether this collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and

clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of appropriate automated, electronic, mechanical or other technological collection techniques or other forms of information technology.

Comments may be sent by any of the following methods:

• *Mail:* Thomas P. Dickson, Rural Development Innovation Center, 1400 Independence Avenue SW, STOP 1522, Room 5164, South Building, Washington, DC 20250–1522. Telephone: (202) 690–4492. Email: *Thomas.Dickson@wdc.usda.gov.*

• *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Follow the instructions for submitting comments.

Title: Request for Approval to Sell Capital Assets.

OMB Control Number: 0572–0020.

Type of Request: Revision of a currently approved information collection.

Abstract: A borrower's assets provide the security for a government loan. The selling of assets reduces the security and increases the risk to the government. RUS Form 369 allows the borrower to seek agency permission to sell some of its assets. The form collects detailed information regarding the proposed sales of a portion of the borrower's systems. RUS electric utility borrowers complete this form to request RUS approval in order to sell capital assets when the fair market value exceeds 10 percent of the borrower's net utility plant. The collection of information will be revised to remove the requirement to submit a Board Resolution with the Form 369.

Estimate of Burden: Public reporting for this collection of information is estimated to average 42.5 hours per response.

Respondents: Not-for-profit institutions.

Estimated Number of Respondents: 33.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 83 hours.

Copies of this information collection can be obtained from Robin M. Jones, Innovation Center, at (202)772–1172, Email: *robin.m.jones@wdc.usda.gov.*

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

Dated: November 2, 2018.

Christopher A. McLean,

Acting Administrator, Rural Utilities Service.

[FR Doc. 2018–24351 Filed 11–6–18; 8:45 am]

BILLING CODE 3410–15–P

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

Sunshine Act Meetings

TIME AND DATE: November 13, 2018, 10 a.m. EDT.

PLACE: U.S. Chemical Safety Board, 1750 Pennsylvania Ave. NW, Suite 910, Washington, DC 20006.

STATUS: This meeting will be closed to the public.

Matters To Be Considered

The Chemical Safety and Hazard Investigation Board (Board) will hold a closed session, as authorized by the Government in the Sunshine Act, to confer with, and receive advice from, its legal counsel regarding pending litigation. The Board will also consider and vote on calendared notation item 2019–08, which concerns the authorization of funding for a legal services support contract, and related matters.

Board Members, Counsel to the Board, and a recording clerk or stenographer will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

The Acting General Counsel of the Board has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b (c)(6), (9)(B), and (10) and 40 CFR 1603.7(f),(h),(i) and (j), permit consideration of the scheduled matters at the closed meeting.

Board Members Kulinowski and Engler voted to consider the matters listed above in a closed session on the grounds noted above.

CONTACT PERSON FOR FURTHER INFORMATION: Thomas Zoeller, Acting General Counsel, at *Tom.Zoeller@csb.gov* or (202) 261–7600. Further information about this public meeting can be found on the CSB website at: *www.csb.gov.*

Dated: November 5, 2018.

Raymond Porfiri,

Deputy General Counsel, Chemical Safety and Hazard Investigation Board.

[FR Doc. 2018–24505 Filed 11–5–18; 4:15 pm]

BILLING CODE 6350–01–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

Agency: U.S. Census Bureau.

Title: 2018–2020 Business Research & Development Survey.

OMB Control Number: 0607–0912.

Form Number(s): BRD–1.

Type of Request: Revision of a currently approved collection.

Number of Respondents: 45,000.

Average Hours per Response: 3 hours and 18 minutes.

Burden Hours: 148,600.

Needs and Uses: The U.S. Census Bureau, with support from the National Science Foundation (NSF), plans to conduct the Business Research and Development Survey (BRDS) for the 2018–2020 survey years. The BRDS covers all domestic, non-farm, for-profit businesses with at least 10 paid employees. The BRDS provides the only comprehensive data on Research and Development (R&D) costs and detailed expenses by type and industry.

The Census Bureau has conducted an R&D survey since 1957, collecting primarily financial information on the systematic work companies undertake to discover new knowledge or use existing knowledge to develop new or improved goods and services.

Beginning in 2018, the BRDS will collect new data about R&D on artificial intelligence, geographic detail of companies' R&D workforce, and leased and temporary R&D employees.

There is increasing interest among domestic policy-makers and in the international community, as well as among U.S. researchers in academia, government and industry, for more data on artificial intelligence.

Domestic and foreign geographic information for R&D workforce will address Bureau of Economic Analysis (BEA) requests on inputs for enhanced estimation and evaluation of gross domestic product by state, foreign direct investment in the U.S., and U.S. direct investment abroad.

As a result of the revision of the Frascati Manual: Guidance for Collecting and Reporting on R&D (OECD, 2015), countries are recommended to collect and separately report on both internal R&D workers (those who are employed directly by and are part of the R&D-performing business) and ''external'' R&D workers (consultants, contractors, and others who contribute directly to the R&D performance of the R&D-performing business, but are not an employee of the business). The collection of these R&D employees is to provide internationally comparable US data on total business R&D workers.

The 2018–2020 BRDS will continue to collect the following types of information:

- R&D expense based on accepted accounting standards.
- Worldwide R&D of domestic companies.
- Business segment detail.
- R&D-related capital expenditures.
- Detailed data about the R&D workforce.
- R&D strategy and data on the potential impact of R&D on the market.
- R&D directed to application areas of particular national interest.
- Data measuring intellectual property protection activities and technology transfer.

Domestic and foreign researchers in academia, business, and government analyze and cite data from the BRDS. Among the federal government users are the Bureau of Economic Analysis (BEA) and the White House's Office of Science and Technology Policy (OSTP). BEA includes R&D in the system of national accounts that measures the economic well-being of the country. BRDS data are key inputs into these accounts, which feed into the calculation of the U.S. Gross Domestic Product (GDP). The White House, in 2006, issued the American Competitiveness Initiative to ''increase investments in research and development, strengthen education, and encourage entrepreneurship.'' In support of this initiative and in response to legislative mandates, data on R&D are delivered to OSTP, primarily in the biennial National Science Board report Science and Engineering Indicators. Also, the National Science Foundation (NSF) produces a series of publications containing R&D data including the National Patterns of R&D Resources series, the S&E State Profile series, and the annual Business R&D and Innovation series. Special reports and other publications are also prepared.

Affected Public: Business or other for-profit.

Frequency: Annually.

Respondent's Obligation: Mandatory.

Legal Authority: The survey is conducted under the authority of Title 13, United States Code, Sections 8(b), 131, and 182, and Title 42, United States Code, Sections 1861–76 (National Science Foundation Act of 1950, as amended).

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Sheleen Dumas,

Departmental Lead PRA Officer, Office of the Chief Information Officer.

[FR Doc. 2018–24279 Filed 11–6–18; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–69–2018]

Foreign-Trade Zone (FTZ) 203—Moses Lake, Washington, Notification of Proposed Production Activity, Joyson Safety Systems Acquisition, LLC (Automotive Airbag Inflators and Propellants), Moses Lake, Washington

Joyson Safety Systems Acquisition, LLC (JSSA) submitted a notification of proposed production activity to the FTZ Board for its facility in Moses Lake, Washington. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on October 30, 2018.

JSSA already has authority to produce automotive airbag inflators and related propellants within Subzone 203A. The current request would add foreign status materials/components to the scope of authority. Pursuant to 15 CFR 400.14(b), additional FTZ authority would be limited to the specific foreign-status materials/components described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt JSSA from customs duty payments on the foreign-status materials/components used in export production. On its domestic sales, for the foreign-status materials/components noted below, JSSA would be able to choose the duty rates during customs entry procedures that apply to the finished products in the existing scope of authority. JSSA would be able to avoid duty on foreign-status components which become scrap/waste. Customs duties also could possibly be deferred or reduced on foreign-status production equipment.

The materials/components sourced from abroad include: Strontium tintinaite; cupric oxide; boron carbide; calcium stearate; guanidine nitrate; nitroguanidine; and, hybrid curtain inflator (HCI) bottles/bodies (metal cylinders) (duty rate ranges from duty-free 6.5%). The request indicates that certain materials/components are subject to special duties under Section 232 of the Trade Expansion Act of 1962 (Section 232) and Section 301 of the Trade Act of 1974 (Section 301), depending on the country of origin. The applicable Section 232 and 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 December 17, 2018.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230–0002, and in the ''Reading Room'' section of the Board's website, which is accessible via *www.trade.gov/ftz.*

For further information, contact Christopher Wedderburn at *Chris.Wedderburn@trade.gov* or (202) 482–1963.

Dated: October 31, 2018.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2018–24341 Filed 11–6–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–66–2018]

Foreign-Trade Zone (FTZ) 259—International Falls, Minnesota; Notification of Proposed Production Activity; Digi-Key Corporation; (Consumer Electronics); Thief River Falls, Minnesota

Digi-Key Corporation (Digi-Key) submitted a notification of proposed production activity to the FTZ Board for its facilities in Thief River Falls, Minnesota. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on October 31, 2018.

The applicant indicates that it will be submitting a separate application for FTZ designation at the Digi-Key facilities under FTZ 259. The facilities are used for light value-added production and kitting of cable connectors and small fans for electronics. 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 Digi-Key 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, Digi-Key would be able to choose the duty rates during customs entry procedures that apply to: Floor preparation tapes; tape polymer resins; anti-reflective tapes; custom cable assemblies of light emitting diodes; velostat foam; heatshrinks; hook and loop re-closable fasteners; radio frequency shielding gold and copper tapes; wire sleeves; radio frequency shielding tape aluminum foil; custom fan cooling assemblies; starter evaluation boards; aluminum strips; custom reels of electrical transformers; modular power supplies; nickel-metal hydride battery packs; custom reel of inductors; alkaline battery packs; lithium battery packs; carbon zinc battery packs; nickel cadmium battery packs; custom reel of radio frequency integrated circuits; custom speaker cables; programmed microcontrollers; custom buzzers for indication or alerts; custom reel of ceramic dielectric capacitors; custom reel of capacitors; custom reel of fixed carbon resistors; custom reel of resistors; custom cable of thermistors; custom cable of rotary non-contact sensors; custom reel of diodes for over voltage protection; custom reel of integrated circuits; custom cable assemblies for pushbutton switches; custom cable assemblies; custom reel of female terminal connectors and slotted PVC wire ducts for cable management; custom reel of zener diodes; custom reel of mosfets; custom reel of transistors; custom reel of LEDs and optocouplers; custom reel of piezoelectric crystals and programmed oscillators; programmed reel of integrated circuits—memories and amplifiers; custom reel of integrated circuits; custom reel of particle accelerators; programmed encoders; coaxial cables; modular cables and custom cable of female terminal connectors; multi-pair cables, insulated displacement custom cables, ribbon cable custom cables, and cable grounds; ribbon cable custom cables; cable fiber optics; cable flex shields; protective sleeving hoses; snap-on lens for light emitting diodes and brightness enhancement films; custom reel of pressure sensors; custom reel of current switch sensors, and dual lock adhesive custom assemblies (duty rate ranges from duty-free to 7%). Digi-Key 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: Fan axials; alkaline batteries; zinc batteries; nickel cadmium batteries; nickel metal hydride batteries; aluminum capacitors; plug insulation displacement connectors, printed circuit board connector ribbons, and connector plugs; connector splices, connector terms, connector strain reliefs, cable modular coils, and cable ribbons used in custom cable assemblies (duty rate ranges from duty-free to 5.3%). The request indicates that several components will be admitted to the zone in privileged foreign status (19 CFR 146.41), thereby precluding inverted tariff benefits on such items. The request also indicates that certain materials/components are subject to special duties under Section 232 of the Trade Expansion Act of 1962 (Section 232) and Section 301 of the Trade Act of 1974 (Section 301), depending on the country of origin. The applicable Section 232 and 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 December 17, 2018.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230–0002, and in the ''Reading Room'' section of the Board's website, which is accessible via *www.trade.gov/ftz*.

For further information, contact Christopher Wedderburn at *Chris.Wedderburn@trade.gov* or (202) 482–1963.

Dated: November 1, 2018.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2018–24337 Filed 11–6–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–185–2018]

Foreign-Trade Zone 287—Tunica County, Mississippi Application for Subzone Future Electronics Distribution Center, L.P., Southaven, Mississippi

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by Tunica County, grantee of FTZ 287, requesting subzone status for the facilities of Future Electronics Distribution Center, L.P., located in Southaven, Mississippi. 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 30, 2018.

The proposed subzone (51.036 acres) is located at 4150 Old Airways Boulevard, Southaven, Desoto County. No authorization for production activity has been requested at this time. The proposed subzone would be subject to the existing activation limit of FTZ 287.

In accordance with the FTZ Board's regulations, Qahira El-Amin 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 December 17, 2018. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to January 2, 2019.

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 Qahira El-Amin at *Qahira.El-Amin@trade.gov* or (202) 482–5928.

Dated: October 31, 2018.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2018–24338 Filed 11–6–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free Trade Agreement (NAFTA), Article 1904 Binational Panel Review: Notice of Request for Panel Review

AGENCY: United States Section, NAFTA Secretariat, International Trade Administration, Department of Commerce.

ACTION: Notice of NAFTA request for Panel Review in the matter of Uncoated Groundwood Paper from Canada (Secretariat File Number: USA–CDA–2018–1904–07).

SUMMARY: The U.S. Section of the NAFTA Secretariat received Requests for Panel Review filed on behalf of Resolute FP Canada Inc. and Resolute FP US Inc. (collectively, ''Resolute'') on October 26, 2018, and filed on behalf of the Government of Quebec on October 29, 2018, pursuant to NAFTA Article 1904. Panel Review was requested of the U.S. International Trade Commission's final injury determination involving imports of Uncoated Groundwood Paper from Canada. The final determination was published in the **Federal Register** on September 27, 2018 (83 FR 48863). The NAFTA Secretariat has assigned case number USA–CDA–2018–1904–07 to this request.

FOR FURTHER INFORMATION CONTACT: Paul E. Morris, United States Secretary, NAFTA Secretariat, Room 2061, 1401 Constitution Avenue NW, Washington, DC 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of Article 1904 of NAFTA provides a dispute settlement mechanism involving trade remedy determinations issued by the Government of the United States, the Government of Canada, and the Government of Mexico. Following a Request for Panel Review, a Binational Panel is composed to review the trade remedy determination being challenged and issue a binding Panel Decision. There are established NAFTA Rules of Procedure for Article 1904 Binational Panel Reviews, which were adopted by the three governments for panels requested pursuant to Article 1904(2) of NAFTA which requires Requests for Panel Review to be published in accordance with Rule 35. For the complete Rules, please see *https://www.nafta-sec-alena.org/Home/Texts-of-the-Agreement/Rules-of-Procedure/Article-1904.*

The Rules provide that:

(a) A Party or interested person may challenge the final determination in whole or in part by filing a Complaint in accordance with Rule 39 within 30 days after the filing of the first Request for Panel Review (the deadline for filing a Complaint is November 26, 2018);

(b) A Party, investigating authority or interested person that does not file a Complaint but that intends to appear in support of any reviewable portion of the final determination may participate in the panel review by filing a Notice of Appearance in accordance with Rule 40 within 45 days after the filing of the first Request for Panel Review (the deadline for filing a Notice of Appearance is December 10, 2018); and

(c) The panel review shall be limited to the allegations of error of fact or law, including challenges to the jurisdiction of the investigating authority, that are set out in the Complaints filed in the panel review and to the procedural and substantive defenses raised in the panel review.

Dated: November 2, 2018 .

Paul E. Morris,

U.S. Secretary, NAFTA Secretariat.

[FR Doc. 2018–24381 Filed 11–6–18; 8:45 am]

BILLING CODE 3510–GT–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–560–828]

Certain Uncoated Paper From Indonesia: Preliminary Results of Antidumping Duty Administrative Review; 2017–2018

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

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that the sole producer/exporter subject to this administrative review made sales of subject merchandise below normal value. We invite interested parties to comment on these preliminary results.

DATES: Applicable November 7, 2018.

FOR FURTHER INFORMATION CONTACT: Blaine Wiltse or Jacob Garten, 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) 482–6345 or (202) 482–3342, respectively.

SUPPLEMENTARY INFORMATION:

Background

Commerce is conducting an administrative review of the antidumping duty order on certain uncoated paper (uncoated paper) from Indonesia. The notice of initiation of this administrative review was published on May 2, 2018.[1] This review only covers APRIL,[2] a producer and exporter of the subject merchandise. The period of review is March 1, 2017, through February 28, 2018. The deadline for the preliminary results of this administrative review is December 3, 2018.[3]

We preliminarily determine that APRIL made sales of subject merchandise at less than normal value. If these preliminary results are adopted in the final results of this review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on any of APRIL's entries.

Scope of the Order

The product covered by the order is certain uncoated paper from Indonesia. The subject merchandise is currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) categories 4802.56.1000, 4802.56.2000, 4802.56.3000, 4802.56.4000, 4802.56.6000, 4802.56.7020, 4802.56.7040, 4802.57.1000, 4802.57.2000, 4802.57.3000, and 4802.57.4000. Some imports of subject merchandise may also be classified under 4802.62.1000, 4802.62.2000, 4802.62.3000, 4802.62.5000, 4802.62.6020, 4802.62.6040, 4802.69.1000, 4802.69.2000, 4802.69.3000, 4811.90.8050 and 4811.90.9080. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.[4]

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 83 FR 19215 (May 2, 2018) (*Initiation Notice*).

[2] Commerce initiated this review on PT Anugerah Kertas Utama, PT Riau Andalan Kertas, and APRIL Fine Paper Macao Offshore Limited (collectively, APRIL). However, during the course of the prior review, Commerce determined to collapse, and treat as a single entity, APRIL and two affiliated parties, PT Sateri Viscose International and A P Fine Paper Trading (Hong Kong) Limited. *See Certain Uncoated Paper from Indonesia: Preliminary Results of Antidumping Duty Administrative Review; 2015–2017,* 83 FR 15129 (April 9, 2018), and accompanying Preliminary Decision Memorandum at 4–6, unchanged in *Certain Uncoated Paper from Indonesia: Final Results of Antidumping Duty Administrative Review; 2015–2017,* 83 FR 39410 (August 9, 2018). This collapsed entity is hereinafter collectively referred to as APRIL.

[3] *See* 19 CFR 351.213(h)(1). On August 9, 2018, Domtar Corporation and P.H. Glatfelter Company (the petitioners) requested that the preliminary results be expedited.

[4] For a complete description of the scope of the order, *see* Memorandum, ''Decision Memorandum for the Preliminary Results of the 2017–2018 Administrative Review of the Antidumping Duty Order on Certain Uncoated Paper from Indonesia'' (Preliminary Decision Memorandum), issued

Methodology

Commerce is conducting this review in accordance with sections 751(a)(1)(B) and (2) of the Tariff Act of 1930, as amended (the Act). Pursuant to section 776(a) and (b) of the Act, Commerce has preliminarily relied upon facts otherwise available with adverse inferences (AFA) for APRIL, because this respondent did not timely respond to all sections of Commerce's initial antidumping duty questionnaire.

For a complete explanation of the methodology and analysis underlying the preliminary application of AFA, *see* the accompanying Preliminary Decision Memorandum. The Preliminary 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 to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be found at *http://enforcement.trade.gov/frn/.* The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content. A list of the topics discussed in the Preliminary Decision Memorandum is attached as an Appendix to this notice.

Preliminary Results of the Review

As a result of this review, we preliminarily determine that the weighted-average dumping margin exists for APRIL for the period March 1, 2017, through February 28, 2018, as follows:

Exporter/producer	Cash deposit rate (percent)
PT Anugerah Kertas Utama, PT Riau Andalan Kertas, APRIL Fine Paper Macao Offshore Limited, PT Sateri Viscose International, and A P Fine Paper Trading (Hong Kong) Limited (collectively, APRIL)	[5] 66.81

Disclosure and Public Comment

Normally, Commerce discloses the calculations performed in connection with its preliminary results to interested parties within five days after the date of publication of the preliminary results of review in the **Federal Register**.[6] However, there are no calculations to disclose here because, in accordance with section 776 of the Act, Commerce preliminarily applied AFA to APRIL, the sole company subject to this review, and based the AFA rate on the highest petition rate in this proceeding.[7]

Interested parties may submit case briefs to Commerce no later than 30 days after the date of publication of this notice.[8] Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than five days after the time limit for filing case briefs.[9] Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[10] Case and rebuttal briefs should be filed using ACCESS.[11]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS. An electronically-filed document must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice.[12] Hearing requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing to be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.[13]

Commerce intends to issue the final results of this administrative review, including the results of its analysis raised in any written briefs, not later than 120 days after the publication date of this notice, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuance of the final results, Commerce will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review.[14] The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.[15] 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

The following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for APRIL will be that established in the final results of this review; (2) for previously investigated companies not participating in this review, the cash deposit will continue to be the company-specific rate published for the most recently completed segment; (3) if the exporter is not a firm covered in this review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent segment for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 2.10 percent, the all-others rate made effective by the LTFV investigation.[16] These deposit requirements, when

concurrently with and hereby adopted by this notice.

[5] The cash deposit rate is equal to the petition rate (66.82 percent) adjusted for the lowest rate of export subsidies found for any company in the most recently completed companion countervailing duty segment. *See Certain Uncoated Paper from Indonesia: Final Results of Countervailing Duty Administrative Review; 2015–2016,* 83 FR 52383 (October 17, 2018), and accompanying Issues and Decision Memorandum at Section V(3), showing an export subsidy of 0.01 percent related to the Exemption from Import Income Tax Withholding for Companies in Bonded Zone Locations Program.

[6] *See* 19 CFR 351.224(b).

[7] *See Certain Uncoated Paper from Australia, Brazil, the People's Republic of China, Indonesia, and Portugal: Initiation of Less-Than-Fair-Value Investigations,* 80 FR 8608 (February 18, 2015), and accompanying Antidumping Duty Investigation Initiation Checklist: Uncoated Paper from Indonesia at 12.

[8] *See* 19 CFR 351.309(c).

[9] *See* 19 CFR 351.309(d).

[10] *See* 19 CFR 351.309(c)(2) and (d)(2).

[11] *See* 19 CFR 351.303.

[12] *See* 19 CFR 351.310(c).

[13] *Id.*

[14] *See* 19 CFR 351.212(b)(1).

[15] *See* section 751(a)(2)(C) of the Act.

[16] *See Order,* 81 FR at 11174.

imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

We are issuing and publishing these preliminary results of review in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(4).

Dated: November 1, 2018.

Christian Marsh,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Application of Facts Available and Adverse Inferences
  A. Use of Facts Available
  B. Application of Facts Available With an Adverse Inference
  C. Selection and Corroboration of AFA Rate
V. Duty Absorption
VI. Conclusion

[FR Doc. 2018–24333 Filed 11–6–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–891; A–412–826]

Carbon and Alloy Steel Wire Rod From the Republic of Korea and the United Kingdom: Initiation and Expedited Preliminary Results of Antidumping Duty Changed Circumstances Review

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

SUMMARY: The Department of Commerce (Commerce) is initiating, and issuing expedited preliminary results of, a changed circumstances review (CCR) of the antidumping duty (AD) orders on carbon and alloy steel wire rod (wire rod) from the Republic of Korea (Korea) and the United Kingdom.

DATES: Applicable November 7, 2018.

FOR FURTHER INFORMATION CONTACT: Alice Maldonado or Jacob Garten, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone 202–482–4682 or 202–482–4633.

SUPPLEMENTARY INFORMATION:

Background

On May 21, 2018, Commerce published the AD orders on wire rod from Korea and the United Kingdom.[1] On September 17, 2018, six members of the domestic industry, including the petitioners from the underlying investigations (Nucor Corporation, Optimus Steel LLC (formerly, Gerdau Ameristeel US Inc), Keystone Consolidates Industries, Inc., and Charter Steel) requested that Commerce initiate a CCR to revoke, in part, the AD orders on wire rod from Korea and the United Kingdom as to grade 1078 and higher tire cord wire rod effective May 21, 2018.[2]

Scope of the Orders

The products covered by these orders are certain hot-rolled products of carbon steel and alloy steel, in coils, of approximately round cross section, less than 19.00 mm in actual solid cross-sectional diameter. Specifically excluded are steel products possessing the above-noted physical characteristics and meeting the Harmonized Tariff Schedule of the United States (HTSUS) definitions for (a) stainless steel; (b) tool steel; (c) high-nickel steel; (d) ball bearing steel; or (e) concrete reinforcing bars and rods. Also excluded are free cutting steel (also known as free machining steel) products (*i.e.,* products that contain by weight one or more of the following elements: 0.1 percent or more of lead, 0.05 percent or more of bismuth, 0.08 percent or more of sulfur, more than 0.04 percent of phosphorous, more than 0.05 percent of selenium, or more than 0.01 percent of tellurium). All products meeting the physical description of subject merchandise that are not specifically excluded are included in this scope.

The products under these orders are currently classifiable under subheadings 7213.91.3011, 7213.91.3015, 7213.91.3020, 7213.91.3093; 7213.91.4500, 7213.91.6000, 7213.99.0030, 7227.20.0030, 7227.20.0080, 7227.90.6010, 7227.90.6020, 7227.90.6030, and 7227.90.6035 of the HTSUS. Products entered under subheadings 7213.99.0090 and 7227.90.6090 of the HTSUS also may be included in this scope if they meet the physical description of subject merchandise above. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of these orders is dispositive.[3]

Initiation and Expedited Preliminary Results of Changed Circumstances Review

Pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.216(d), Commerce will conduct a CCR of an antidumping or countervailing duty order when it receives information which shows changed circumstances sufficient to warrant such a review. Section 782(h)(2) of the Act and 19 CFR 351.222(g)(1)(i) provide that Commerce may revoke an order (in whole or in part) if it determines that producers accounting for substantially all of the production of the domestic like product have no further interest in the order, in whole or in part. In addition, in the event Commerce determines that expedited action is warranted, 19 CFR 351.221(c)(3)(ii) permits Commerce to combine the notices of initiation and preliminary results.

For the reasons discussed below and in the accompanying proprietary memorandum, we find that such sufficient information exists to warrant a CCR.[4] Further, Commerce does not require any additional information to make a preliminary finding. For this reason, as permitted by 19 CFR 351.221(c)(3)(ii), Commerce finds that expedited action is warranted and is conducting this review on an expedited basis by publishing preliminary results

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[1] *See Carbon and Alloy Steel Wire Rod from Italy, the Republic of Korea, Spain, the Republic of Turkey, and the United Kingdom: Antidumping Duty Orders and Amended Final Affirmative Antidumping Duty Determinations for Spain and the Republic of Turkey,* 83 FR 23417 (May 21, 2018) (*Orders*).

[2] *See* letter from domestic industry re: ''Carbon and Alloy Steel Wire Rod from the Republic of Korea and the United Kingdom: Petitioners' Request for Changed Circumstances Review and Partial Revocation Request,'' dated September 17, 2018 (CCR Request).

[3] For a description of the domestic industry's proposed exclusion language, *see* Attachment 1.

[4] *See* Memorandum, ''Analysis of Industry Support for Changed Circumstances Review: Carbon and Alloy Steel Wire Rod from the Republic of Korea and the United Kingdom,'' dated concurrently with, and hereby adopted by, this notice.

in conjunction with a notice of initiation.

The six domestic producers filing the request assert that they account for ''substantially all'' [5] of the domestic production of carbon and alloy steel wire rod.[6] Because there is no record information that contradicts this claim, in accordance with section 751(b) of the Act and 19 CFR 351.222(g)(1)(i), we find that the six domestic producers comprise substantially all of the production of the domestic like product.

Because this CCR request was filed less than 24 months after the date of publication of notice of the final determination in the investigations, pursuant to 19 CFR 351.216(c), Commerce must determine whether good cause exists. We find that the six domestic producers' affirmative statement of no interest in the orders with respect to grade 1078 and higher tire cord quality wire rod constitutes good cause for the conduct of this review.[7] Based on the expression of no interest by the six domestic producers and in the absence of any objection by any other interested parties, we preliminarily determine that substantially all of the domestic producers of the like product have no interest in the continued application of the antidumping duty orders on wire rod from Korea and the United Kingdom. Accordingly, we are notifying the public of our intent to revoke, in part, the antidumping duty orders as they relate to imports of grade 1078 and higher tire cord wire rod. We intend to change the scope of the orders on wire rod from Korea and the United Kingdom by adding the exclusion language provided in Attachment 1 and requiring a certification as provided in Attachment 2.

Public Comment

Interested parties may submit case briefs not later than 14 days after the date of publication of this notice.[8] Rebuttal briefs, which must be limited to issues raised in case briefs, may be filed not later than seven days after the due date for case briefs.[9] All submissions must be filed electronically using Enforcement and Compliance's AD and CVD Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov* and in the Central Records Unit, room B8024 of the main Department of Commerce building. An electronically filed document must be received successfully in its entirety by ACCESS, by 5:00 p.m. Eastern Time on the due dates set forth in this notice.

Any interested party may request a hearing within 14 days of publication of this notice. Hearing requests should contain the following information: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations at the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing to be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230 in a room to be determined.[10]

Unless extended, consistent with 19 CFR 351.216(e), we intend to issue the final results of this CCR no later than 270 days after the date on which this review was initiated or 45 days if all parties agree to the outcome of the review.

This notice is published in accordance with sections 751(b)(1) and 777(i)(1) of the Act and 19 CFR 351.216 and 351.221(c)(3).

Dated: November 1, 2018.

James Maeder,

Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations performing the duties of Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Attachment 1

Proposed Revision to the Scope of the Orders

Excluded from the scope of the antidumping duty orders from Korea and the United Kingdom are grade 1078 and higher tire cord quality wire rod to be used in the production of tire cord wire. Grade 1078 and higher tire cord quality wire rod refers to wire rod with not less than 0.78 percent of carbon and includes but is not limited to other high carbon grades of wire rod such as Grade 1078, 1080, 1085, 1086, 1090, and 1092.

Grade 1078 and higher tire cord quality rod is defined as: (i) Grade 1078 and higher tire cord quality wire rod measuring not more than 6.0 mm in cross-sectional diameter; (ii) with an average partial decarburization of no more than 70 microns in depth (maximum individual 200 microns); (iii) having no non-deformable inclusions greater than 20 microns and no deformable inclusions greater than 35 microns; (iv) having a carbon segregation per heat average of 3.0 or better; (v) having a surface quality with no surface defects of a length greater than 0.15 mm; (vi) capable of being drawn to a diameter of 0.405 mm or less, and (vii) containing by weight the following elements in the proportions shown: (1) 0.78 percent or more of carbon, (2) less than 0.01 percent of aluminum, (3) 0.040 percent or less, in the aggregate, of phosphorus and sulfur, (4) 0.006 percent or less of nitrogen, (5) not more than 0.6 percent silicon; and (6) not more than 0.55 percent in the aggregate, of copper, nickel, and chromium. For purposes of the grade 1078 and higher tire cord quality wire rod, an inclusion will be considered to be deformable if its ratio of length (measured along the axis-that is, the direction of rolling-of the rod) over thickness (measured on the same inclusion in a direction perpendicular to the axis of the rod) is equal to or greater than three. The size of an inclusion for purposes of the 20 microns and 35 microns limitations is the measurement of the largest dimension observed on a longitudinal section measured in a direction perpendicular to the axis of the rod.

The designation of the products as ''tire cord quality'' indicates the acceptability of the product for use in the production of tire cord applications which require that the tire cord wire rod be drawn into wire with a diameter of 0.405 mm or less. These quality designations are presumed to indicate that these products are being used in tire cord applications, and such merchandise intended for the tire cord applications is not included in the scope. Importers of tire cord quality wire rod will attach, as a condition of entry, a certification of end use that certifies that the Grade 1078 and above tire cord quality wire rod will be used only in the production of tire cord wire.[11]

Attachment 2

Proposed End Use Certification

I hereby certify that:

- My name is {INSERT COMPANY OFFICIAL'S NAME HERE} and I am an official of {INSERT NAME OF IMPORTING COMPANY};
- I have direct personal knowledge of the facts regarding the importation of the {INSERT GRADE} tire cord wire rod produced in {INSERT COUNTRY} that entered under entry number(s) {INSERT ENTRY NUMBER(S)} and are covered by this certification;
- I have personal knowledge of the facts regarding the production of the imported products covered by this certification;
- I have personal knowledge of the facts regarding the end-use of the imported products covered by this certification because (initial one):

[5] In its administrative practice, Commerce has interpreted ''substantially all'' to mean at least 85 percent of the total production of the domestic like product covered by the order. *See, e.g., Supercalendered Paper from Canada: Final Results of Changed Circumstances Review and Revocation of Countervailing Duty Order,* 83 FR 32268 (July 12, 2018).

[6] *See* CCR Request at 4–6.

[7] *See e.g., Certain Cold-Rolled Steel Flat Products from Japan: Initiation and Preliminary Results of Changed Circumstances Review, and Intent To Revoke Order in Part,* 82 FR 821 (January 4, 2017) (finding that ''Petitioners' affirmative statement of no interest in the order . . . constitutes good case for the conduct of this review.'')

[8] Commerce is exercising its discretion under 19 CFR 351.309(c)(1)(ii) to alter the time limit for filing of case briefs.

[9] Commerce is exercising its discretion under 19 CFR 351.309(d)(1) to alter the time limit for filing of rebuttal briefs.

[10] *See* 19 CFR 351.310(d).

[11] *See* Attachment II for proposed certification.

• _____my company is the end-user of the imported product covered by this certification,

Or

• _____my company is not the end-user of the imported products covered by this certification, but I have contacted the end-user and advised them in writing of the end-use requirements for the imported product and an official of the end-user has signed a copy of this certification;

• This tire cord wire rod shall be used for tire cord applications, which require that the tire cord wire rod be drawn into wire with a diameter of 0.405 mm or less;

• This tire cord wire rod will not be drawn into wire with a diameter greater than 0.405 mm;

• I understand that {INSERT NAME OF IMPORTING COMPANY} is required to maintain a copy of this certification (including a copy signed by an end-user that is not the importer) and sufficient documentation supporting this certification for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in the United States courts regarding such entries;

• I understand that {INSERT NAME OF IMPORTING COMPANY} is required to provide this certification and supporting records, upon entry, to U.S. Customs and Border Protection (CBP);

• I understand that the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or the U.S. Department of Commerce (Commerce);

• I understand that failure to maintain the required certification and/or failure to substantiate the claims made herein will result in:

○ suspension of liquidation of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met; and

○ the requirement that the importer post applicable antidumping duty (AD) cash deposits equal to the rates as determined by Commerce;

• I understand that agents of the importer, such as brokers, are not permitted to make this certification;

• This certification was completed at the time of entry;

• I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. government.

IMPORTER SIGNATURE _____
NAME OF COMPANY OFFICIAL _____
TITLE _____
DATE _____

END-USER SIGNATURE (if other than importer) _____
NAME OF COMPANY OFFICIAL _____
TITLE _____
COMPANY NAME _____
DATE _____

[FR Doc. 2018–24350 Filed 11–6–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–864]

Certain Corrosion-Resistant Steel Products From India: Notice of Court Decision Not in Harmony With the Affirmative Final Determination and Countervailing Duty Order

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

SUMMARY: On October 23, 2018, the United States Court of International Trade (CIT or the Court) sustained the final results of redetermination pertaining to the countervailing duty (CVD) investigation of certain corrosion-resistant steel products (CORE) from India for the period of investigation from January 1, 2014, through December 31, 2014. The Department of Commerce (Commerce) is notifying the public that the final judgment in this case is not in harmony with the *Final Determination* and *Order* of the investigation and that Commerce is amending the *Final Determination* and *Order* with respect to the CVD cash deposit rate assigned to JSW Steel Limited and JSW Steel Coated Products Limited (collectively JSW).

DATES: This order is effective November 2, 2018.

FOR FURTHER INFORMATION CONTACT: Christian Llinas, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone (202) 482–4877.

SUPPLEMENTARY INFORMATION:

Background

On June 2, 2016, Commerce published its *Final Determination* in the CVD investigation of CORE from India.[1] Commerce issued an *Amended Final Determination* explaining its critical circumstances analysis, on June 14, 2016.[2] Commerce published the countervailing duty order resulting from the investigation on July 25, 2016.[3]

On May 9, 2018, the CIT remanded the *Final Determination* to Commerce.[4] Specifically, the CIT remanded the *Final Determination* directing Commerce to recalculate JSW's CVD rate without regard to JSW Steel (Salav) Limited (Salav), a cross-owned input supplier.[5] On August 7, 2018, Commerce issued its final results of redetermination pursuant to remand in accordance with the CIT's order.[6] On remand, Commerce, under respectful protest,[7] recalculated JSW's CVD rate without regard to Salav, and also recalculated the ''all-others'' rate. On October 23, 2018, the CIT sustained Commerce's *Final Redetermination*.[8] The effective date of this notice is November 2, 2018.

Timken Notice

In its decision in *Timken,*[9] as clarified by *Diamond Sawblades,*[10] the Court of Appeals for the Federal Circuit (CAFC) held that, pursuant to section 516A of the Tariff Act of 1930, as amended (the Act), Commerce must publish a notice of a court decision that is not ''in harmony'' with a Commerce determination and must suspend liquidation of entries pending a ''conclusive'' court decision.[11] The CIT's October 23, 2018, final judgment affirming the *Final Redetermination* constitutes a final decision of the Court that is not in harmony with Commerce's *Final Determination* and *Order.* This notice is published in fulfillment of the publication requirements of *Timken* and section 516A of the Act.

Amended Final Determination

Because there is now a final court decision, Commerce is amending its *Final Determination* and *Order.* Commerce finds that the revised countervailable subsidy rate for JSW and the revised ''all-others'' rate are as follows:

[1] *See Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from India: Final Affirmative Determination,* 81 FR 35323 (June 2, 2016) (*Final Determination*) and accompanying Issues and Decision Memorandum (IDM).

[2] *See Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from India: Notice of Correction to Final Affirmative Determination; Negative Determination of Critical Circumstances,* 81 FR 38671 (June 14, 2016) (*Amended Final Determination*).

[3] *See Certain Corrosion-Resistant Steel Products from India, Italy, Republic of Korea and the People's Republic of China: Countervailing Duty Order,* 81 FR 48387 (July 25, 2016) (*Order*).

[4] *JSW Steel Ltd. and JSW Steel Coated Products Ltd.* v. *United States,* Court No. 16–00165, Slip Op. 18–51 (CIT May 9, 2018).

[5] *Id.* at 8–9.

[6] *See* Final Results of Redetermination Pursuant to Court Remand *JSW Steel Limited and JSW Steel Coated Products Limited* v. *United States,* Slip Op. 18–51 (CIT May 9, 2018), dated August 7, 2018 (*Final Redetermination*).

[7] *See Viraj Group, Ltd.* v. *United States,* 343 F.3d 1371 (Fed. Cir. 2003).

[8] *See JSW Steel Ltd. and JSW Steel Coated Products Ltd.* v. *United States,* Court No. 16–00165, Slip Op. 18–147 (CIT Oct. 23, 2018).

[9] *See Timken Co.,* v. *United States,* 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

[10] *See Diamond Sawblades Mfrs. Coalition* v. *United States,* 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

[11] *See* Sections 516A(c) and (e) of the Act.

Producer/exporter	Net subsidy rate (percent)
JSW Steel Limited and JSW Steel Coated Products Limited	4.24
"All-others" rate	6.12

Cash Deposit Requirements

Because JSW does not have a superseding cash deposit rate, *i.e.,* there have been no final results published in subsequent administrative reviews for JSW, Commerce will issue revised cash deposit instructions to CBP. Commerce will also instruct CBP to collect cash deposits for companies covered by the ''all-others'' cash deposit rate according to the table above.

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(c)(1) and (e), 705(c)(1)(B), and 777(i)(1) of the Act.

Dated: November 1, 2018.

James Maeder,

Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations performing the duties of Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2018–24355 Filed 11–6–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG571

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Notice; availability of hatchery plan and request for comment.

SUMMARY: Notice is hereby given that the Bureau of Reclamation (Reclamation) and the California Department of Fish and Wildlife (CDFW) have submitted a Hatchery and Genetics Management Plan (HGMP) pursuant to the protective regulations promulgated for Pacific salmon and steelhead under the Endangered Species Act (ESA). The HGMP specifies the operation of a hatchery program rearing coho salmon in the upper Trinity River within the State of California. This document serves to notify the public of the availability of the HGMP and associated draft environmental assessment (EA) for comment prior to a decision by NMFS whether to approve the proposed hatchery program.

DATES: Comments must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific time on December 7, 2018.

ADDRESSES: Written comments on the application should be addressed to NMFS West Coast Region, California Coastal Office, 1655 Heindon Road, Arcata, CA 95521, or faxed to (707) 825–4840. Comments may be submitted by email to: *TrinityRiverHatchery Plan.wcr@noaa.gov.* Include in the subject line of the email comment the following identifier: Comments on the Trinity River Hatchery plan.

FOR FURTHER INFORMATION CONTACT: Seth Naman, at phone number: (707) 825–5180, or via email: *Seth.Naman@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Species covered in this notice:

Coho salmon (*O. kisutch*): Threatened, naturally produced and artificially propagated Southern Oregon/Northern California (SONCC).

Reclamation and CDFW have submitted an HGMP to NMFS describing a hatchery program that releases coho salmon into the upper Trinity River, in northern California, for consideration pursuant to Limit 5 of the ESA 4(d) rule for salmon and steelhead.

The hatchery program that is the subject of the NMFS evaluation would operate to produce coho salmon to mitigate for lost natural production that would have occurred in historic spawning habitat upstream of the Trinity River Dam and the Lewiston Dam (*i.e.,* habitat blocked since the dams were constructed). The program would propagate coho salmon smolts that are derived from the local coho salmon population in the Trinity River, matching natural-origin coho salmon with their natural counterparts whenever possible, and striving for a high proportion of natural influence (average greater than 0.67). Measures would be applied in the hatchery program to reduce the risk of incidental adverse genetic, ecological, and demographic effects on natural-origin salmon populations.

As specified in the July 10, 2000, ESA 4(d) rule for salmon and steelhead (65 FR 42422) and updated June 28, 2005 (70 FR 37160), NMFS may approve an HGMP if it meets criteria set forth in 50 CFR 223.203(b)(5)(i)(A) through (K). Prior to final approval of an HGMP, NMFS must publish notification announcing its availability for public review and comment.

Authority

Under section 4 of the ESA, the Secretary of Commerce is required to adopt such regulations as s/he deems necessary and advisable for the conservation of species listed as threatened under the ESA. The ESA salmon and steelhead 4(d) rule (65 FR 42422, July 10, 2000, as updated in 70 FR 37160, June 28, 2005), specifies categories of activities that contribute to the conservation of ESA-listed salmonids and sets out the criteria for such activities. Limit 5 of the updated 4(d) rule (50 CFR 223.203(b)(5)) further provides that the prohibitions of paragraph (a) of the updated 4(d) rule (50 CFR 223.203(a)) do not apply to activities associated with artificial propagation programs provided that an HGMP has been approved by NMFS in accordance with the salmon and steelhead 4(d) rule (65 FR 42422, July 10, 2000, as updated in 70 FR 37160, June 28, 2005).

Dated: November 1, 2018.

Angela Somma,

Chief, Endangered Species Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2018–24384 Filed 11–6–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Evaluation of the Pacific Islands Managed and Protected Area Community (PIMPAC)

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 January 7, 2019.

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 Michael Lameier, Habitat Conservation Division, Pacific Islands Regional Office, 1845 Wasp Blvd., Building 176, Honolulu, HI 96818, (808) 725 5085, *michael.lameier@noaa.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for a new collection of information. The aim of the study is to understand the effectiveness of the capacity development efforts of the Pacific Islands Managed and Protected Area Community, as known as PIMPAC. The survey will assess to what extent PIMPAC has developed human and organizational capacities to enhance protected area management in the Pacific island region. Results of the survey are expected to help guide and improve the effectiveness of capacity development activities by PIMPAC for protected area management in the next ten years.

II. Methods of Collection

The survey will be conducted using in-person, one on one interviews and phone interviews.

III. Data

OMB Control Number: 0648–xxxx.

Form Number(s): None.

Type of Review: Regular submission (request for a new information collection).

Affected Public: Individuals or households, not-for-profit institutions; state, local, and federal government.

Estimated Number of Respondents: 80.

Estimated Time per Response: 30 minutes per survey and 1 hour per interview.

Estimated Total Annual Burden Hours: 50 hours.

Estimated Total Annual Cost to Public: $0 in record keeping/reporting.

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: November 1, 2018.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2018–24276 Filed 11–6–18; 8:45 am]

BILLING CODE 3510–22–P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC–2012–0030]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Testing and Recordkeeping Requirements for Carpets and Rugs

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: As required by the Paperwork Reduction Act of 1995, the Consumer Product Safety Commission (CPSC) announces a submission to the Office of Management and Budget (OMB) requesting an extension of approval for a collection of information related to the CPSC's Standard for the Surface Flammability of Carpets and Rugs and the Standard for the Surface Flammability of Small Carpets and Rugs (OMB No. 3041–0017). CPSC previously published a notice announcing the agency's intent to seek an extension of approval of this collection of information. CPSC received no comments in response to that notice.

DATES: Written comments on this request for extension of approval for information collection requirements should be submitted by December 7, 2018.

ADDRESSES: Submit comments about this request by email: *OIRA_submission@omb.eop.gov* or fax: 202–395–6881. Comments by mail should be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the CPSC, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503. In addition, written comments that are sent to OMB also should be submitted electronically at *http://www.regulations.gov,* under Docket No. CPSC–2012–0030.

FOR FURTHER INFORMATION CONTACT: Bretford Griffin, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; (301) 504–7037, or by email to: *bgriffin@cpsc.gov.*

SUPPLEMENTARY INFORMATION: CPSC seeks to renew the following currently approved collection of information:

Title: Safety Standard for the Flammability of Carpets and Rugs and Standard for the Flammability of Small Carpets and Rugs.

OMB Number: 3041–0017.

Type of Review: Renewal of collection.

Frequency of Response: On occasion.

Affected Public: Manufacturers and importers of carpets and rugs.

Estimated Number of Respondents: Out of 215 domestic manufacturers, approximately half, or 108 manufacturers, elect to issue a guaranty of compliance with the FFA. Additionally, of the approximately 6,000 firms that import carpets and rugs, approximately 1,500 elect to issue guaranties of compliance. Staff estimates that the average firm issuing a continuing guarantee under the FFA is required to conduct, at most, 200 tests per year, although the actual number of tests required by a given firm may vary from one to 200, depending upon the number of carpet styles and the annual production volume. To estimate burden, we selected the midpoint, 100 tests per year.

Estimated Time per Response: 2.5 hours to conduct each test, and to establish and maintain test records.

Total Estimated Annual Burden: The time required to conduct each test is estimated to be 2.5 hours, including the time required to establish and maintain the test records. We estimate the total annualized cost/burden to respondents could be as many as 160,800 tests per year (1,608 firms × 100 tests), at 2.5 hours per test, or 402,000 hours.

Total Estimated Annual Cost to Respondents: The total annualized costs to all respondents for the hour burden for collection of information is estimated to be as high as $27,830,460, using a mean hourly employer cost-per-hour-worked of $69.23 (Bureau of Labor Statistics: Total compensation rates for management, professional, and related occupations in private goods-producing industries, March 2018) (402,000 hours × $69.23).

General Description of Collection: The Standard for the Surface Flammability of Carpets and Rugs (16 CFR part 1630) and the Standard for the Surface Flammability of Small Carpets and Rugs (16 CFR part 1631) establish requirements to reduce the flammability of carpets and rugs. The standards'

provisions include requirements for testing and recordkeeping for manufacturers and importers who furnish guaranties subject to the carpet and rug flammability standards. Separate from the guaranties, the Consumer Product Safety Improvement Act of 2008 (CPSIA) established product certification requirements for applicable consumer product safety standards and rules. 15 U.S.C. 2063(g).

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2018–24318 Filed 11–6–18; 8:45 am]

BILLING CODE 6355–01–P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC–2012–0024]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Notification Requirements for Coal and Wood Burning Appliances

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: As required by the Paperwork Reduction Act of 1995, the Consumer Product Safety Commission (CPSC) announces a submission to the Office of Management and Budget (OMB) requesting an extension of approval for a collection of information related to the CPSC's Standard for Coal and Wood Burning Appliances—Notification of Performance and Technical Data (OMB No. 3041–0040). CPSC previously published a notice announcing the agency's intent to seek this extension. CPSC received no comments in response to that notice.

DATES: Written comments on this request for extension of approval for information collection requirements should be submitted by December 7, 2018.

ADDRESSES: Submit comments about this request by email: *OIRA_submission@omb.eop.gov* or fax: 202–395–6881. Comments by mail should be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the CPSC, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503. In addition, written comments that are sent to OMB also should be submitted electronically at *http://www.regulations.gov,* under Docket No. CPSC–2012–0024.

FOR FURTHER INFORMATION CONTACT: Bretford Griffin, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; (301) 504–7037, or by email to: *bgriffin@cpsc.gov.*

SUPPLEMENTARY INFORMATION: CPSC seeks to renew the following currently approved collection of information:

Title: Notification Requirements for Coal and Wood Burning Appliances.

OMB Number: 3041–0040.

Type of Review: Renewal of collection.

Frequency of Response: On occasion.

Affected Public: Manufacturers and importers of coal and wood burning appliances.

Estimated Number of Respondents: An estimated five submissions annually.

Estimated Time per Response: Three hours per submission and 30 minutes for collecting and mailing the information to the CPSC.

Total Estimated Annual Burden: 17.5 hours (5 submissions × 3.5 hours).

Total Estimated Annual Cost to Respondents: $1,212, based on an average total hourly employee compensation rate of $69.23 for management, professional, and related occupations (Bureau of Labor Statistics: Total compensation rates for management, professional, and related occupations in private goods-producing industries, March 2018) (17.5 hours × $69.23).

General Description of Collection: 16 CFR part 1406, Coal and Wood Burning Appliances—Notification of Performance and Technical Data requires that manufacturers and importers provide consumers with written notification regarding certain technical and performance information related to safety on each coal and wood burning appliance. Manufacturers are also required to provide to the CPSC a copy of the notification to consumers and an explanation of all clearance distances contained in the notification. For existing models, all known manufacturers have complied with the requirements. Accordingly, there is no new burden associated with the requirements of 16 CFR part 1406, except in cases where existing models are changed, or new models are introduced. Less than five submissions are estimated annually from new stove models coming into the market, or new firms entering the market.

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2018–24319 Filed 11–6–18; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Board of Visitors of the U.S. Air Force Academy; Notice of Federal Advisory Committee Meeting

AGENCY: Department of the Air Force, Board of Visitors of the U.S. Air Force Academy, Department of Defense.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The Department of Defense (DoD) is publishing this notice to announce that the following Federal Advisory Committee meeting of the Board of Visitors (BoV) of the U.S. Air Force Academy (USAFA) will take place.

DATES: Wednesday November 28, 2018 from 9 a.m. to 4:15 p.m. (Eastern Time).

ADDRESSES: Capitol Visitor Center, SVC–201, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dan Anderson, Designated Federal Officer (DFO), at (703) 693–9575 (Voice), 703–693–4244 (Facsimile), *daniel.l.anderson55.civ@mail.mil* (Email). Mailing address is SAF/MRM, 1660 Air Force Pentagon, Washington, DC 20330–1660. Website: *https://www.usafa.edu/about/bov/.*

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.140 and 102–3.150.

Purpose of the Meeting: The purpose of the meeting is to review morale and discipline, social climate, athletics, diversity, curriculum and other matters relating to the USAFA.

Meeting Accessibility: Open to the public subject to the availability of space. Registration of members of the public who wish to attend the meeting will begin upon publication of this meeting notice and end three business days (23 November) prior to the start of the meeting. All members of the public must contact Lt. Col. Caltagirone at the phone number or email listed below in the section titled Seating is limited and is on a first-to-arrive basis. Attendees will be asked to provide their name, title, affiliation, and contact information to include email address and daytime telephone number to the point of contact (POC) listed in the **FOR FURTHER INFORMATION CONTACT** section. Any interested person may attend the meeting, file written comments or statements with the committee, or make

verbal comments from the floor during the public meeting, at the times, and in the manner, permitted by the BoV.

Written Statements: Pursuant to 41 CFR 102–3.105(j) and 102–3.140 and section 10(a)(3) of the FACA, the public or interested organizations may submit written comments or statements to the BoV about its mission and/or the topics to be addressed in this public meeting. Written comments or statements should be submitted to Lt. Col. Caltagirone, via electronic mail, the preferred mode of submission, at the email address listed in the **FOR FURTHER INFORMATION CONTACT** section in the following formats: Adobe Acrobat or Microsoft Word. The comment or statement must include the author's name, title, affiliation, address, and daytime telephone number. Written comments or statements being submitted in response to the agenda set forth in this notice must be received by the committee DFO at least five (5) business days (21 November) prior to the meeting so that they may be made available to the BoV Chairman for their consideration prior to the meeting. Written comments or statements received after this date (21 November) may not be provided to the BoV until its next meeting. Please note that because the BoV operates under the provisions of the FACA, as amended, all written comments will be treated as public documents and will be made available for public inspection.

Verbal Comments: Members of the public will be permitted to make verbal comments during the meeting only at the time and in the manner allowed herein. If a member of the public is interested in making a verbal comment at the open meeting, that individual must submit a request, with a brief statement of the subject matter to be addressed by the comment, at least three (3) business days (23 November) in advance, via electronic mail, the preferred mode of submission, at the email address listed in the **FOR FURTHER INFORMATION CONTACT** section. The BoV DFO will log each request to make a comment, in the order received, and the DFO and BoV Chairman will determine whether the subject matter of each comment is relevant to the BoV's mission and/or the topics to be addressed in this public meeting. A period near the end of the meeting will be available for verbal public comments. Members of the public who have requested to make a verbal comment and whose comments have been deemed relevant under the process described in this paragraph, will be allotted no more than five (5) minutes during this period, and will be invited to speak in the order in which their requests were received by the DFO. For the benefit of the public, rosters that list the names of BoV members and any releasable materials presented during the BoV meeting shall be made available upon request.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel Angela Caltagirone, Directorate of Force Management Policy, BoV Executive Secretary, AF/A1PT, 1040 Air Force Pentagon, Washington, DC 20330, (703) 692–4572, *angela.k.caltagirone.mil@mail.mil.*

Henry Williams,

Acting Air Force Federal Register Liaison Officer.

[FR Doc. 2018–24349 Filed 11–6–18; 8:45 am]

BILLING CODE 5001–10–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2018–OS–0089]

Proposed Collection; Comment Request

AGENCY: Washington Headquarters Service (WHS), DoD.

ACTION: Information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Office of the Secretary announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: 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; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by January 7, 2019.

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

Federal eRulemaking 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, Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title 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: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Pentagon Force Protection Agency ATTN: Parking Management Branch, Room 2D1039, 9000 Defense Pentagon, Washington, DC 20301–9000.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Pentagon Reservation Parking Permit Application; DD Form 1199; OMB Control Number 0704–0395.

Needs and Uses: To administer the Pentagon, Mark Center, and Suffolk Building Vehicle Parking Program where individuals are allocated parking spaces and to ensure that unless authorized to do so, parking permit applicants do not also receive the DoD National Capital Region Public Transportation fare subsidy benefit.

Affected Public: Individuals or Households.

Annual Burden Hours: 350.

Number of Respondents: 4,200.

Responses per Respondent: 1.

Annual Responses: 4,200.

Average Burden per Response: 5 minutes.

Frequency: On occasion.

Respondents are Department of Defense and non-DoD personnel who utilize designated parking areas on the Pentagon Reservation. The Pentagon Reservation Parking Permit Application (PRPPA), DD Form 1199, is a handwritten or electronic form that includes information, such as name, rank or grade, Social Security Number (SSN), and vehicle license plate number, required for the issuance and control of the parking permit. The DD Form 1199 data is entered or completed in a secured computerized database designed for the administration of the Pentagon, Mark Center, and Suffolk Building Vehicle Parking Program. Each member of an authorized van/car pool or single occupancy vehicle parking permit is required to complete and submit the DD Form 1199 upon initial application and upon renewal period thereafter.

Dated: November 2, 2018.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2018–24383 Filed 11–6–18; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Charter Renewal of Department of Defense Federal Advisory Committees

AGENCY: Department of Defense.

ACTION: Renewal of Federal Advisory Committee.

SUMMARY: The Department of Defense is publishing this notice to announce that it is renewing the charter for the Board of Visitors of the U.S. Air Force (''the Board'').

FOR FURTHER INFORMATION CONTACT: Jim Freeman, Advisory Committee Management Officer for the Department of Defense, 703–692–5952.

SUPPLEMENTARY INFORMATION: The Board's charter is being renewed pursuant to 10 U.S.C. 9355 and in accordance with the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended) and 41 CFR 102–3.50(a). The Board's charter and contact information for the Board's Designated Federal Officer (DFO) can be found at *https://www.facadatabase.gov/FACA/apex/FACAPublicAgencyNavigation.*

The Board provides the Secretary of Defense and the Deputy Secretary of Defense, through the Secretary of the Air Force, and to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives independent advice and recommendations on the morale and discipline, social climate, the curriculum, instruction, physical equipment, fiscal affairs, academic methods and other matters relating to the Academy that the Board decides to consider.

Pursuant to 10 U.S.C. 9355(f), the Board shall prepare a semiannual report containing its views and recommendations pertaining to the Academy, based on its meeting since the last such report and any other considerations it determines relevant. Each report shall be submitted concurrently to the Secretary of Defense, through the Secretary of the Air Force, and to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives.

The Board, pursuant to 10 U.S.C. 9355(a) and (b)(2), shall be constituted annually and composed of 15 members: a. Six persons designated by the President, at least two of whom shall be graduates of the Academy; b. The Chair of the Committee on Armed Services of the House of Representatives, or designee; c. Four persons designated by the Speaker of the House of Representatives, three of whom shall be members of the House of Representatives and the fourth of whom may not be a member of the House of Representatives; d. The Chair of the Committee on Armed Services of the Senate, or designee; and e. Three other members of the Senate designated by the Vice President or the President pro tempore of the Senate, two of whom are members of the Committee on Appropriations of the Senate.

Pursuant to 10 U.S.C. 9355(b)(1), Board members designated by the President shall serve for three years each, except that any member whose term of office has expired shall continue to serve until a successor is designated. The President shall designate persons each year to succeed the members whose terms expire that year.

Pursuant to 10 U.S.C. 9355(c)(1), if a member of the Board dies or resigns, or is terminated as a member of the Board pursuant to 10 U.S.C. 9355(c)(2), a successor shall be designated for the unexpired portion of the term by the official who designated the member.

If a member of the Board fails to attend two successive Board meetings, except in a case in which an absence is approved in advance for good cause by the Board Chair, such failure shall be grounds for termination from membership on the Board, pursuant to 10 U.S.C. 9355(c)(2)(A) (''absenteeism provision'').

Pursuant to 10 U.S.C. 9355(c)(2)(B), termination of membership on the Board pursuant to the absenteeism provision, in the case of a member of the Board who is not a member of Congress, may be made by the Board's Chair and, in the case of a member of the Board who is a member of Congress, may be made only by the official who designated the member. Pursuant to 10 U.S.C. 9355(c)(2)(C), when a member of the Board is subject to termination from membership on the Board under the absenteeism provision, the Board's Chair shall notify the official who designated the member. Upon receipt of such a notification with respect to a member of the Board who is a member of Congress, the official who designated the member shall take such action as that official considers appropriate.

The Board members shall select the Chair and Vice Chair from the total membership. Except for reimbursement of official Board-related travel and per diem, Board members serve without compensation.

The Board may, pursuant to 10 U.S.C. 9355(g) and upon approval by the Secretary of the Air Force, call in advisors for consultation. These advisors shall, with the exception of reimbursement of official Board-related travel and per diem, serve without compensation.

The public or interested organizations may submit written statements to the Board membership about the Board's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of the Board. All written statements shall be submitted to the DFO for the Board, and this individual will ensure that the written statements are provided to the membership for their consideration.

Dated: November 2, 2018.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2018–24370 Filed 11–6–18; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Charter Renewal of Department of Defense Federal Advisory Committees

AGENCY: Department of Defense.

ACTION: Renewal of Federal Advisory Committee.

SUMMARY: The Department of Defense is publishing this notice to announce that it is renewing the charter for the United States Naval Academy Board of Visitors (''the Board'').

FOR FURTHER INFORMATION CONTACT: Jim Freeman, Advisory Committee Management Officer for the Department of Defense, 703–692–5952.

SUPPLEMENTARY INFORMATION: The Board's charter is being renewed pursuant to 10 U.S.C. 6968 and in accordance with the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended) and 41 CFR 102–3.50(a). The Board's charter and contact information for the Board's Designated Federal Officer (DFO) can be found at *https://www.facadatabase.gov/FACA/apex/FACAPublicAgencyNavigation.*

The Board provides the President of the United States, independent advice and recommendations on the state of

morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, academic methods and other matters relating to the Academy that the Board decides to consider.

Pursuant to 10 U.S.C. 6968(d) and (f), the Board shall visit the Academy annually. With the approval of the Secretary of the Navy, the Board or its members may make other visits to the Academy in connection with the duties of the Board or to consult with the Superintendent of the Academy. The Board shall submit a written report to the President within 60 days after its annual visit to the Academy, to include the Board's views and recommendations pertaining to the Academy. Any report of a visit, other than an annual visit, shall, if approved by a majority of the members of the Board, be submitted to the President within 60 days after the approval.

The Board, pursuant to 10 U.S.C. 6968, shall be constituted annually and composed of the following 15 members: a. The Chair of the Committee on Armed Services of the Senate, or designee; b. Three other members of the Senate designated by the Vice President or the President pro tempore of the Senate, two of whom are members of the Committee on Appropriations of the Senate; c. The Chair of the Committee on Armed Services of the House of Representatives, or designee; d. Four other members of the House of Representatives designated by the Speaker of the House of Representatives, two of whom are members of the Committee on Appropriations of the House of Representatives, and; e. Six persons designated by the President.

Pursuant to 10 U.S.C. 6968(b), Board members designated by the President shall serve for three years each, except that any member whose term of office has expired shall continue to serve until his or her successor is appointed. The President shall designate two persons each year to succeed the members whose terms expire that year. Pursuant to 10 U.S.C. 6968(c), if a Board member dies or resigns, a successor shall be designated for the unexpired portion of the term by the official who designated the member. The Board shall select the Chair from the total membership. Except for reimbursement of official Board-related travel and per diem, Board members serve without compensation.

The public or interested organizations may submit written statements to the Board membership about the Board's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of the Board. All written statements shall be submitted to the DFO for the Board, and this individual will ensure that the written statements are provided to the membership for their consideration.

Dated: November 2, 2018.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2018–24369 Filed 11–6–18; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Intent To Grant an Exclusive License for a U.S. Army Owned Invention to Integrated Composite Construction Systems, LLC

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice.

SUMMARY: The Department of the Army announces that, unless there is an objection, after 15 days it intends to grant an exclusive license to Integrated Composite Construction Systems, LLC., a corporation having a place of business in Culpepper, VA on United States Patent No. 8,016,938 entitled ''Structures and Components Comprising Blast Resistant Concrete also Suitable for Limiting Penetration of Ballistic Fragments,'' issued September 13, 2011.

DATES: Written objections must be filed within 15 days from the publication date of this notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: U.S. Army Engineer Research and Development Center, ATTN: CEERD–ZBT–C (Ms. Sandra K. Fairley), 3909 Halls Ferry Road, Vicksburg, MS 39180–61996, Voice: 601–634–3391, Email: *Sandra.K.Fairley@usace.army.mil.*

SUPPLEMENTARY INFORMATION: Any license granted shall comply with 35 U.S.C. 209 and 37 CFR part 404.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2018–24344 Filed 11–6–18; 8:45 am]

BILLING CODE 3720–58–P

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Sunshine Act Meetings

TIME AND DATE: Session 1: 10:00 a.m.–11:20 a.m., Session 2: 11:30 a.m.–1:30 p.m., November 28, 2018.

PLACE: 625 Indiana Avenue NW, Room 352, Washington, DC 20004.

STATUS: Open. While the Government in the Sunshine Act does not require that the scheduled hearing be conducted in a meeting, the Defense Nuclear Facilities Safety Board has determined that an open meeting and hearing furthers the public interests underlying both the Government in the Sunshine Act and the Board's enabling legislation.

MATTERS TO BE CONSIDERED: Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), and as authorized by 42 U.S.C. 2286b, notice is hereby given of the Board's public hearing on August 28, 2018. The goals for the hearing are (1) to gather information on DNFSB interface and access to information, facilities, and personnel managed by the Department of Energy (DOE) Office of Environmental Management; and (2) receive input from the public regarding the role of independent oversight and interfaces between DNFSB and DOE.

In session 1, the Board will hear from the Assistant Secretary for the Office of Environmental Management. The objectives for this session are to (1) discuss implementation of DOE Order 140.1 by the Office of Environmental Management and (2) discuss changes in DNFSB access to information, facilities, and personnel, and interfaces as a result of DOE Order 140.1. In session 2, the Board will hear comments from members of the public regarding the role of independent oversight and interfaces between DNFSB and DOE.

The agenda for the hearing is posted on the Board's website (*www.dnfsb.gov*). Public participation in the hearing is invited during the public comment period of the agenda. Persons interested in speaking during the public comment period are encouraged to pre-register by submitting a request in writing to the Board's address listed above, emailing *hearing@dnfsb.gov,* or calling the Office of the General Counsel at (202) 694–7000 or (800) 788–4016 prior to close of business on November 26, 2018. The Board asks that commenters describe the nature and scope of their oral presentations. Those who pre-register will be scheduled to speak first. Individual oral comments may be limited by the time available, depending on the number of persons who register. At the beginning of the hearing, the Board will post a list of speakers at the entrance to the hearing room. Anyone who wishes to comment or provide technical information or data may do so in writing, either in lieu of, or in addition to, making an oral presentation. The Board Members may

question presenters to the extent deemed appropriate. Written comments and documents will be accepted at the hearing or may be sent to the Board's Washington, DC office. The Board will hold the hearing record open until December 28, 2018, for the receipt of additional materials.

The hearing will be presented live through internet video streaming. A link to the presentation will be available on the Board's website, and a recording will be posted soon after. A transcript of these sessions and the associated correspondence will be made available on the Board's website. The Board specifically reserves its right to further schedule and otherwise regulate the course of the hearing, to recess, reconvene, postpone, or adjourn the hearing, conduct further reviews, and otherwise exercise its authority under the Atomic Energy Act of 1954, as amended.

CONTACT PERSON FOR MORE INFORMATION: Glenn Sklar, General Manager, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue NW, Suite 700, Washington, DC 20004–2901, (800) 788–4016.

Dated: November 5, 2018.

Bruce Hamilton,

Chairman.

[FR Doc. 2018–24438 Filed 11–5–18; 4:15 pm]

BILLING CODE 3670–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2018–ICCD–0120]

Agency Information Collection Activities; Comment Request; Gainful Employment Disclosure Template

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of an existing information collection.

DATES: Interested persons are invited to submit comments on or before January 7, 2019.

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–0120. 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: Gainful Employment Disclosure Template.

OMB Control Number: 1845–0107.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: Individuals or Households; Private Sector; State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 72,794,823.

Total Estimated Number of Annual Burden Hours: 15,993,706.

Abstract: Under the disclosure requirements, an institution must provide current and prospective students with information about each of its programs that prepares students for gainful employment in a recognized occupation (GE programs) using a disclosure template provided by the Secretary. The Secretary must specify the information to be included on the disclosure template in a notice published in the **Federal Register**. The Department is requesting revision of the burden currently calculated for 1845–0107. This request revises the current information collection for the disclosure template to reflect the updated disclosure requirements that institutions must provide current and prospective students. The Secretary may, by notice in the **Federal Register**, change the disclosure items required. Not all items listed under 34 CFR 668.412 are included in the revised disclosure template.

Dated: November 2, 2018

Kate Mullan,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2018–24382 Filed 11–6–18; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2018–ICCD–0119]

Agency Information Collection Activities; Comment Request; Private School Universe Survey (PSS) 2019–20 and 2021–22

AGENCY: National Center for Education Statistics (NCES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of an existing information collection.

DATES: Interested persons are invited to submit comments on or before January 7, 2019.

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–0119. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be

addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 550 12th Street SW, PCP, Room 9086, Washington, DC 20202–0023.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Kashka Kubzdela, 202–245–7377 or email *NCES.Information.Collections@ed.gov.*

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Private School Universe Survey (PSS) 2019–20 and 2021–22.

OMB Control Number: 1850–0641.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 32,677.

Total Estimated Number of Annual Burden Hours: 6,577.

Abstract: The Private School Universe Survey (PSS) is conducted by the National Center for Education Statistics (NCES) to collect basic information from the universe of private elementary and secondary schools in the United States. The PSS is designed to gather biennial data on the total number of private schools, teachers, and students, along with a variety of related data, including: religious orientation; grade-levels taught and size of school; length of school year and of school day; total student enrollment by gender (K–12); number of high school graduates; whether a school is single-sexed or coeducational; number of teachers employed; program emphasis; and existence and type of its kindergarten program. The PSS includes all schools that are not supported primarily by public funds, that provide classroom instruction for one or more of grades K–12 or comparable ungraded levels, and that have one or more teachers. No substantive changes have been made to the survey or its procedures since its last approved 2017–18 administration (OMB# 1850–0641 v.8). The PSS is also used to create a universe list of private schools for use as a sampling frame for NCES surveys of private schools. This request is to conduct the 2019–20 and 2021–22 PSS data collections, and the 2021–22 PSS list frame building operations.

Dated: November 2, 2018.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2018–24314 Filed 11–6–18; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2018–ICCD–0118]

Agency Information Collection Activities; Comment Request; Student Assistance General Provisions—Annual Fire Safety Report

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 January 7, 2019.

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–0118. 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: Student Assistance General Provisions—Annual Fire Safety Report.

OMB Control Number: 1845–0097.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: Private Sector; State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 4,310.

Total Estimated Number of Annual Burden Hours: 4,313.

Abstract: The Department of Education regulations at 34 CFR 668.49 require institutions to collect statistics on fires occurring in on-campus student housing facilities, including the number and cause of each fire, the number of injuries related to each fire that required

treatment at a medical facility, the number of deaths related to each fire, and the value of property damage caused by each fire. Institutions must also publish an annual fire safety report containing the institution's policies regarding fire safety and the fire statistics information. Further institutions are required to maintain a fire log that records the date, time, nature, and general location of each fire in on-campus student housing facilities.

This request is to extend the current approval of reporting requirements contained in the regulations. The collection requirements in the regulations are necessary to meet institutional information reporting to students and staff as well as for reporting to Congress through the Secretary.

Dated: November 1, 2018.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2018–24301 Filed 11–6–18; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[OE Docket No. EA–464]

Application To Export Electric Energy; Boston Energy Trading and Marketing LLC

AGENCY: Office of Electricity, DOE.

ACTION: Notice of application.

SUMMARY: Boston Energy Trading and Marketing LLC (BETM or Applicant) has applied for authority to transmit electric energy from the United States to Mexico pursuant to the Federal Power Act.

DATES: Comments, protests, or motions to intervene must be submitted on or before December 7, 2018.

ADDRESSES: Comments, protests, motions to intervene, or requests for more information should be addressed to: Office of Electricity, Mail Code: OE–20, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585–0350. Because of delays in handling conventional mail, it is recommended that documents be transmitted by overnight mail, by electronic mail to *Electricity.Exports@hq.doe.gov,* or by facsimile to 202–586–8008.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated by the United States Department of Energy (DOE) pursuant to sections 301(b) and 402(f) of the Department of Energy Organization Act (42 U.S.C. 7151(b) and 7172(f)), and require authorization under section 202(e) of the Federal Power Act (16 U.S.C. 824a(e)).

On October 19, 2018, DOE received an application from BETM for authority to transmit electric energy from the United States to Mexico as a power marketer for a five-year term using existing international transmission facilities. BETM is also certified as a Qualified Scheduling Entity with the Electric Reliability Council of Texas and is registered as a wholesale power marketer with the Public Utility Commission of Texas.

In its application, BETM states that it ''does not own, operate or control any electric power supply system in the United States'' and that it ''does not have a franchised service area.'' The electric energy that BETM proposes to export to Mexico would be surplus energy purchased from third parties such as electric utilities and Federal power marketing agencies pursuant to voluntary agreements. The existing international transmission facilities to be utilized by the Applicant have previously been authorized by Presidential permits issued pursuant to Executive Order No. 10,485, as amended by Executive Order No. 12,038, and are appropriate for open access transmission by third parties.

Procedural Matters: Any person desiring to be heard in this proceeding should file a comment or protest to the application at the address provided above. Protests should be filed in accordance with Rule 211 of the Federal Energy Regulatory Commission's (FERC's) Rules of Practice and Procedure (18 CFR 385.211). Any person desiring to become a party to these proceedings should file a motion to intervene at the above address in accordance with FERC Rule 214 (18 CFR 385.214). Five (5) copies of such comments, protests, or motions to intervene should be sent to the address provided above on or before the date listed above.

Comments and other filings concerning BETM's application to export electric energy to Mexico should be clearly marked with OE Docket No. EA–464. An additional copy is to be provided to both Jay Goldman, Boston Energy Trading and Marketing LLC, 1 International Place, 9th Floor, Boston, MA 02110, and Tracey L. Bradley, Bracewell LLP, 2001 M Street NW, Suite 900, Washington, DC 20036.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to DOE's National Environmental Policy Act Implementing Procedures (10 CFR part 1021) and after a determination is made by DOE that the proposed action will not have an adverse impact on the sufficiency of supply or reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above, by accessing the program website at *http://energy.gov/node/11845,* or by emailing Angela Troy at *Angela.Troy@hq.doe.gov.*

Signed in Washington, DC, on November 1, 2018.

Christopher Lawrence,

Management and Program Analyst, Transmission Permitting and Technical Assistance, Office of Electricity.

[FR Doc. 2018–24354 Filed 11–6–18; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[OE Docket No. EA–145–F]

Application To Export Electric Energy; Powerex Corp.

AGENCY: Office of Electricity, DOE.

ACTION: Notice of application.

SUMMARY: Powerex Corp. (Powerex or Applicant) has applied to renew its authority to transmit electric energy from the United States to Mexico pursuant to the Federal Power Act.

DATES: Comments, protests, or motions to intervene must be submitted on or before December 7, 2018.

ADDRESSES: Comments, protests, motions to intervene, or requests for more information should be addressed to: Office of Electricity, Mail Code: OE–20, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585–0350. Because of delays in handling conventional mail, it is recommended that documents be transmitted by overnight mail, by electronic mail to *Electricity.Exports@hq.doe.gov,* or by facsimile to 202–586–8008.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated by the Department of Energy (DOE) pursuant to sections 301(b) and 402(f) of the Department of Energy Organization Act (42 U.S.C. 7151(b) and 7172(f)) and require authorization under section 202(e) of the Federal Power Act (16 U.S.C. 824a(e)).

On February 19, 2014, DOE issued Order No. EA–145–E to Powerex, which authorized the Applicant to transmit electric energy from the United States to Mexico as a power marketer for a five-year term using existing international

transmission facilities. That authority expires on February 19, 2019. On October 22, 2018, Powerex filed an application with DOE for renewal of the export authority contained in Order No. EA–145–E for an additional five-year term.

In its application, Powerex states that it ''does not own any electric generation or transmission facilities and . . . does not hold a franchise or service territory or native load obligation.'' The electric energy that Powerex proposes to export to Mexico would be purchased from third parties such as electric utilities and Federal power marketing agencies pursuant to voluntary agreements. The existing international transmission facilities to be utilized by the Applicant have previously been authorized by Presidential Permits issued pursuant to Executive Order 10485, as amended, and are appropriate for open access transmission by third parties.

Procedural Matters: Any person desiring to be heard in this proceeding should file a comment or protest to the application at the address provided above. Protests should be filed in accordance with Rule 211 of the Federal Energy Regulatory Commission's (FERC) Rules of Practice and Procedure (18 CFR 385.211). Any person desiring to become a party to these proceedings should file a motion to intervene at the above address in accordance with FERC Rule 214 (18 CFR 385.214). Five (5) copies of such comments, protests, or motions to intervene should be sent to the address provided above on or before the date listed above.

Comments and other filings concerning Powerex's application to export electric energy to Mexico should be clearly marked with OE Docket No. EA–145–F. An additional copy is to be provided directly to both Connor Curson, Powerex Corp., 666 Burrard Street, Suite 1300, Vancouver, British Columbia, Canada V6C 2X8 and Tracey L. Bradley, Bracewell LLP, 2001 M Street NW, Suite 900, Washington, DC 20036.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to DOE's National Environmental Policy Act Implementing Procedures (10 CFR part 1021) and after a determination is made by DOE that the proposed action will not have an adverse impact on the sufficiency of supply or reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above, by accessing the program website at *http://energy.gov/node/11845,* or by emailing Angela Troy at *Angela.Troy@hq.doe.gov.*

Signed in Washington, DC, on November 1, 2018.

Christopher Lawrence,

Management and Program Analyst, Transmission Permitting and Technical Assistance, Office of Electricity.

[FR Doc. 2018–24362 Filed 11–6–18; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[OE Docket No. EA–345–B]

Application To Export Electric Energy; New Brunswick Energy Marketing Corporation

AGENCY: Office of Electricity Department of Energy (DOE).

ACTION: Notice of application.

SUMMARY: New Brunswick Energy Marketing Corporation (Applicant or NBEMC) has applied to renew its authority to transmit electric energy from the United States to Canada pursuant to the Federal Power Act.

DATES: Comments, protests, or motions to intervene must be submitted on or before December 7, 2018.

ADDRESSES: Comments, protests, motions to intervene, or requests for more information should be addressed to: Office of Electricity, Mail Code: OE–20, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585–0350. Because of delays in handling conventional mail, it is recommended that documents be transmitted by overnight mail, by electronic mail to *Electricity.Exports@hq.doe.gov,* or by facsimile to 202–586–8008.

SUPPLEMENTARY INFORMATION: The Department of Energy (DOE) regulates exports of electricity from the United States to a foreign country, pursuant to sections 301(b) and 402(f) of the Department of Energy Organization Act (42 U.S.C. 7151(b) and 7172(f)). Such exports require authorization under section 202(e) of the Federal Power Act (16 U.S.C. 824a(e)).

On December 6, 2013, DOE issued Order No. EA–345–A to NBEMC, which authorized the Applicant to transmit electric energy from the United States to Canada as a power marketer for a five-year term using existing international transmission facilities. That authority expires on December 5, 2018. On October 16, 2018, NBEMC filed an application with DOE for renewal of the export authority contained in Order No. EA–345–A for an additional five-year term.

In its application, the Applicant states that it ''does not own any electric generation or transmission facilities and, as a power marketer, does not hold a franchise or service territory or native load obligation.'' The electric energy that the Applicant proposes to export to Canada would be surplus energy purchased from third parties such as electric utilities and Federal power marketing agencies pursuant to voluntary agreements. The existing international transmission facilities to be utilized by NBEMC have previously been authorized by Presidential permits issued pursuant to Executive Order 10485, as amended, and are appropriate for open access transmission by third parties.

Procedural Matters: Any person desiring to be heard in this proceeding should file a comment or protest to the application at the address provided above. Protests should be filed in accordance with Rule 211 of the Federal Energy Regulatory Commission's (FERC) Rules of Practice and Procedure (18 CFR 385.211). Any person desiring to become a party to this proceeding should file a motion to intervene at the above address in accordance with FERC Rule 214 (18 CFR 385.214). Five (5) copies of such comments, protests, or motions to intervene should be sent to the address provided above on or before the date listed above.

Comments and other filings concerning NBEMC's application to export electric energy to Canada should be clearly marked with OE Docket No. EA–345–B. An additional copy is to be provided directly to both Janice McNeil, New Brunswick Energy Marketing Corporation, 515 King Street, 2nd Floor, P.O. Box 2040, Fredericton, New Brunswick, Canada E3B 5G4, and Tracey L. Bradley, Bracewell LLP, 2001 M Street NW, Suite 900, Washington, DC 20036.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to DOE's National Environmental Policy Act Implementing Procedures (10 CFR part 1021) and after DOE determines that the proposed action will not have an adverse impact on the sufficiency of supply or reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above, by accessing the program website at *http://energy.gov/node/11845,* or by emailing Angela Troy at *Angela.Troy@hq.doe.gov.*

Signed in Washington, DC, on November 1, 2018.

Christopher Lawrence,

Management and Program Analyst, Transmission Permitting and Technical Assistance, Office of Electricity.

[FR Doc. 2018–24358 Filed 11–6–18; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[OE Docket No. EA–463]

Application To Export Electric Energy; Boston Energy Trading and Marketing LLC

AGENCY: Office of Electricity, Department of Energy (DOE).

ACTION: Notice of application.

SUMMARY: Boston Energy Trading and Marketing LLC (BETM or Applicant) has applied for authorization to transmit electric energy from the United States to Canada pursuant to the Federal Power Act.

DATES: Comments, protests, or motions to intervene must be submitted on or before December 7, 2018.

ADDRESSES: Comments, protests, motions to intervene, or requests for more information should be addressed to: Office of Electricity, Mail Code: OE–20, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585–0350. Because of delays in handling conventional mail, it is recommended that documents be transmitted by overnight mail, by electronic mail to *Electricity.Exports@hq.doe.gov,* or by facsimile to 202–586–8008.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated by the Department of Energy (DOE) pursuant to sections 301(b) and 402(f) of the Department of Energy Organization Act (42 U.S.C. 7151(b) and 7172(f)) and require authorization under section 202(e) of the Federal Power Act (16 U.S.C. 824a(e)).

On October 19, 2018, DOE received an application from BETM for authorization to transmit electric energy from the United States to Canada as a power marketer for a five-year term using existing international transmission facilities. BETM is also certified as a Qualified Scheduling Entity with the Electric Reliability Council of Texas and is registered as a wholesale power marketer with the Public Utility Commission of Texas.

In its application, BETM states that it ''does not own, operate, or control any electric power supply system in the United States'' and that it ''does not have a franchised service area.'' The electric energy that the Applicant proposes to export to Canada would be surplus energy purchased from third parties such as electric utilities and other suppliers within the United States pursuant to voluntary agreements. The existing international transmission facilities to be utilized by BETM have previously been authorized by Presidential Permits issued pursuant to Executive Order 10485, as amended, and are appropriate for open access transmission by third parties.

Procedural Matters: Any person desiring to be heard in this proceeding should file a comment or protest to the application at the address provided above. Protests should be filed in accordance with Rule 211 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure (18 CFR 385.211). Any person desiring to become a party to these proceedings should file a motion to intervene at the above address in accordance with FERC Rule 214 (18 CFR 385.214). Five (5) copies of such comments, protests, or motions to intervene should be sent to the address provided above on or before the date listed above.

Comments and other filings concerning BETM's application to export electric energy to Canada should be clearly marked with OE Docket No. EA–463. An additional copy is to be provided to both Jay Goldman, Boston Energy Trading and Marketing LLC, 1 International Place, 9th Floor, Boston, MA 02110, and Tracey L. Bradley, Bracewell LLP, 2001 M Street NW, Suite 900, Washington, DC 20036.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to DOE's National Environmental Policy Act Implementing Procedures (10 CFR part 1021) and after a determination is made by DOE that the proposed action will not have an adverse impact on the sufficiency of supply or reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above, by accessing the program website at *http://energy.gov/node/11845,* or by emailing Angela Troy at *Angela.Troy@hq.doe.gov.*

Signed in Washington, DC, on November 1, 2018.

Christopher Lawrence,

Management and Program Analyst, Transmission Permitting and Technical Assistance, Office of Electricity.

[FR Doc. 2018–24353 Filed 11–6–18; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2883–009]

Notice of Scoping Meetings and Environmental Site Review and Soliciting Scoping Comments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 2883–009.

c. *Date filed:* May 30, 2018.

d. *Applicant:* Aquenergy Systems, LLC.

e. *Name of Project:* Fries Hydroelectric Project.

f. *Location:* On the New River in the Town of Fries, Grayson County, Virginia. No federal lands are occupied by the project works or located within the project boundary.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Ms. Beth E. Harris, P.E., Southeast Regional Manager, Enel Green Power North America, Inc., 11 Anderson Street, Piedmont, SC 29673, Phone: (864) 846–0042 ext. 100, Email: *beth.harris@enel.com,* or Mr. Kevin Webb, Hydro Licensing Manager, Enel Green Power North America, Inc., 100 Brickstone Square, Suite 300, Andover, MA 01810, Phone: (978) 935–6039, Email: *kevin.webb@enel.com.*

i. *FERC Contact:* Brandi Sangunett, Phone: 202–502–8393, Email: *brandi.sangunett@ferc.gov.*

j. *Deadline for filing scoping comments:* January 7, 2019.

The Commission strongly encourages electronic filing. Please file motions to intervene and protests 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–2883–009.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that

may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted, but is not ready for environmental analysis at this time.

l. The existing Fries Hydroelectric Project (Fries Project) consists of: (1) A 41-foot-high, 610-foot-long rock masonry dam with a 500-foot-long spillway; (2) an impoundment with an 88-acre surface area at the normal pool elevation (spillway crest elevation) of 2,188.27 feet National Geodetic Vertical Datum of 1929 (NGVD 29); (3) an approximately 750-foot-long, 110-foot-wide intake canal with four 15.5-foot-high, 6.5-foot-wide headgates; (4) a canal spillway consisting of 10 stoplog bays totaling 47 feet in width; (5) two 12.5-foot-high, 5.0-foot-wide canal gates; (6) a 28-foot-long, 10.5-square-foot concrete penstock to supply water to the unit 4 powerhouse; (7) a steel powerhouse that contains a single vertical Kaplan turbine with a capacity of 2.1 megawatts (MW) that discharges into a 180-foot-long, 75-foot-wide, 12-foot-deep tailrace; (8) a masonry powerhouse that contains one vertical and two horizontal Francis turbines with a total capacity of 3.0 MW that discharges into a 180-foot-long, 120-foot-wide, 12-foot-deep tailrace; (9) a 500-foot-long, 450-foot-wide bypassed reach that extends from the toe of the dam to the confluence with the tailraces; (10) a 567-foot-long, 13.2-kilovolt (kV) transmission line that runs from the steel powerhouse to the interconnection point with the grid; (11) a 130-foot-long transmission line that connects the masonry powerhouse to a 5,000 kilovolt-amp step-up transformer and an additional 323-foot-long, 13.2-kV transmission line leading from the transformer to the interconnection point; and (12) appurtenant facilities.

Aquenergy is proposing two modifications to the existing Fries Project boundary. First, the project boundary upstream of the canal intake would be expanded to include all of Aquenergy's existing property on the north bank of the New River out to the right-of-way for Route 94 and upstream of the dam to encompass the impoundment access area. Second, Aquenergy's existing powerhouse access road easement between Route 94 and the masonry powerhouse would be included in the project boundary. As proposed, the project boundary would encompass 5.34 acres of land.

The Fries Project is operated in a run-of-river mode. For the period 2003 through 2016, the average annual generation at the Fries Project was 26,150 megawatt-hours.

m. 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.

n. *Scoping Process:* The Commission intends to prepare an environmental assessment (EA) on the project in accordance with the National Environmental Policy Act. The EA will consider both site-specific and cumulative environmental impacts and reasonable alternatives to the proposed action.

Scoping Meetings

In addition to written comments solicited by this SD1, we will hold two public scoping meetings in the vicinity of the project. An evening meeting will focus on receiving input from the public, and a daytime meeting will focus on concerns of the resource agencies, NGO's, and Indian tribes. We invite all interested agencies, Indian tribes, NGOs, and individuals to attend one or both of the meetings to assist us in identifying the scope of environmental issues that should be analyzed in the EA. The times and locations of the meetings are as follows:

Public Scoping Meeting

Date: Wednesday, December 5, 2018.
Time: 7 p.m. Eastern Standard Time.
Place: Fries Community Center.
Address: 316 W. Main Street, Fries, VA 24330.

Agency Scoping Meeting

Date: Thursday, December 6, 2018.
Time: 9 a.m. Eastern Standard Time.
Place: Fries Community Center.
Address: 316 W. Main Street, Fries, VA 24330.

Copies of the Scoping Document (SD1) outlining the subject areas to be addressed in the EA were distributed to the parties on the Commission's mailing list. Copies of the SD1 will be available at the scoping meeting or may be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link (see item m above).

Environmental Site Review

The Applicant and FERC staff will conduct a project Environmental Site Review beginning at 2 p.m. on December 5, 2018. All interested individuals, organizations, and agencies are invited to attend. All participants should meet at the Fries Hydropower Project, 616 W. Main Street, Fries, VA 24330. All participants are responsible for their own transportation to the site. Anyone with questions about the Environmental Site Review should contact Mr. Kevin Webb of Aquenergy Systems, LLC at (978) 935–6039 or *Kevin.Webb@enel.com.* Those individuals planning to participate in the Environmental Site Review should notify Mr. Webb of their intent, no later than November 30, 2018.

Objectives

At the scoping meetings, the staff will: (1) Summarize the environmental issues tentatively identified for analysis in the EA; (2) solicit from the meeting participants all available information, especially quantifiable data, on the resources at issue; (3) encourage statements from experts and the public on issues that should be analyzed in the EA, including viewpoints in opposition to, or in support of, the staff's preliminary views; (4) determine the resource issues to be addressed in the EA; and (5) identify those issues that require a detailed analysis, as well as those issues that do not require a detailed analysis.

Procedures

The meetings are recorded by a stenographer and become part of the formal record of the Commission proceeding on the project.

Individuals, organizations, and agencies with environmental expertise and concerns are encouraged to attend the meeting and to assist the staff in defining and clarifying the issues to be addressed in the EA.

Dated: November 1, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–24332 Filed 11–6–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14891–000]

Renewable Energy Aggregators; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On September 20, 2018, Renewable Energy Aggregators, filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Waymart West Pumped Storage Hydro Project to be located in Clinton Township and Waymart Borough in Wayne County, Pennsylvania. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following: (1) A new upper reservoir with a surface area of 30 acres and a storage capacity of 450 acre-feet at a surface elevation of approximately 2,172 feet above mean sea level (msl) created through construction of a new roller-compacted concrete or rock-fill dam; (2) a new lower reservoir with a surface area of 35 acres and a storage capacity of 525 acre-feet at a surface elevation of 1,550 feet msl; (3) a new 2,100-foot-long, 4-foot-diameter penstock connecting the upper and lower reservoirs; (4) a new 150-foot-long, 50-foot-wide, 25-foot-high powerhouse containing two turbine-generator units with a total rated capacity of 32 megawatts; (5) a new transmission line connecting the powerhouse to a nearby electric grid interconnection point with options to evaluate multiple grid interconnection locations; and (6) appurtenant facilities. The proposed project would have an annual generation of 70,080 megawatt-hours.

Applicant Contact: Adam Rousselle II, Renewable Energy Aggregators, 5710 Oak Crest Drive, Doylestown, PA 18902; phone: 215–485–1708.

FERC Contact: Woohee Choi; phone: (202) 502–6336.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications 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–14891–000.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of the Commission's website at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–14891) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: November 1, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–24325 Filed 11–6–18; 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 rate filings:

Docket Numbers: ER10–2434–007; ER10–2436 007; ER10–2467 007; ER17–1666–003.

Applicants: Fenton Power Partners I, LLC, Hoosier Wind Project, LLC, Red Pine Wind Project, LLC, Wapsipinicon Wind Project, LLC.

Description: Second Supplement to June 27, 2018 Triennial Market Power Update for the Central Region of the EDFR Sellers.

Filed Date: 10/31/18.

Accession Number: 20181031–5296.

Comments Due: 5 p.m. ET 11/21/18.

Docket Numbers: ER10–3285–002; ER10–3181–003; ER17–177–001.

Applicants: UGI Utilities Inc., UGI Development Company, UGI Energy Services, LLC.

Description: Notice of Non-Material Change in Status of the UGI MBR Companies.

Filed Date: 10/31/18.

Accession Number: 20181031–5324.

Comments Due: 5 p.m. ET 11/21/18.

Docket Numbers: ER16–1833–004.

Applicants: Sempra Gas & Power Marketing, LLC.

Description: Compliance filing: Sempra Gas & Power Marketing, LLC Compliance Filing to be effective 11/1/2018.

Filed Date: 11/1/18.

Accession Number: 20181101–5164.

Comments Due: 5 p.m. ET 11/23/18.

Docket Numbers: ER16–2516–001.

Applicants: Arizona Public Service Company.

Description: Compliance filing: Rate Schedule No. 284—Delaney Interconnection Agreement to be effective 10/31/2016.

Filed Date: 11/1/18.

Accession Number: 20181101–5098.

Comments Due: 5 p.m. ET 11/23/18.

Docket Numbers: ER19–240–000.

Applicants: Southern California Edison Company.

Description: § 205(d) Rate Filing: Letter Agreement Southern California Renewable Partners, LLC—Vision Wind to be effective 10/17/2018.

Filed Date: 10/31/18.

Accession Number: 20181031–5236.

Comments Due: 5 p.m. ET 11/21/18.

Docket Numbers: ER19–241–000.

Applicants: Pacific Gas and Electric Company.

Description: § 205(d) Rate Filing: Q3 2018 Quarterly Filing of City and County of San Francisco's WDT SA (SA 275) to be effective 9/30/2018.

Filed Date: 10/31/18.

Accession Number: 20181031–5238.

Comments Due: 5 p.m. ET 11/21/18.

Docket Numbers: ER19–243–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 3498 Kennett Board of Public Works NITSA NOA to be effective 10/1/2018.

Filed Date: 10/31/18.

Accession Number: 20181031–5246.

Comments Due: 5 p.m. ET 11/21/18.

Docket Numbers: ER19–244–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Revisions to the Tariff, OA and RAA RE: Seasonal DR Registration Aggregation to be effective 1/1/2019.

Filed Date: 10/31/18.

Accession Number: 20181031–5261.

Comments Due: 5 p.m. ET 11/21/18.

Docket Numbers: ER19–245–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 3500 Paragould Light Water and Cable to be effective 10/1/2018.

Filed Date: 10/31/18.

Accession Number: 20181031–5263.

Comments Due: 5 p.m. ET 11/21/18.

Docket Numbers: ER19–246–000.

Applicants: Llano Estacado Wind, LLC.

Description: § 205(d) Rate Filing: LEW MBR Tariff Update Change in Status 2018.10.31 to be effective 11/1/2018.

Filed Date: 10/31/18.

Accession Number: 20181031–5289.

Comments Due: 5 p.m. ET 11/21/18.

Docket Numbers: ER19–248–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Amendment to WMPA SA No. 4918; Queue No. AC2–072 to be effective 1/30/2018.

Filed Date: 11/1/18.

Accession Number: 20181101–5065.

Comments Due: 5 p.m. ET 11/23/18.

Docket Numbers: ER19–249–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2018–11–01_Attachment O Revisions for ADIT and AFDUC to be effective 1/1/2019.

Filed Date: 11/1/18.

Accession Number: 20181101–5074.

Comments Due: 5 p.m. ET 11/23/18.

Docket Numbers: ER19–250–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Amendment to WMPA SA No. 4919; Queue No. AC2–073 to be effective 1/30/2018.

Filed Date: 11/1/18.

Accession Number: 20181101–5082.

Comments Due: 5 p.m. ET 11/23/18.

Docket Numbers: ER19–251–000.

Applicants: ISO New England Inc., New England Power Pool Participants Committee.

Description: § 205(d) Rate Filing: ISO New England and New England Power Pool; Update to Schedule 16 of the OATT to be effective 1/1/2019.

Filed Date: 11/1/18.

Accession Number: 20181101–5091.

Comments Due: 5 p.m. ET 11/23/18/

Docket Numbers: ER19–252–000.

Applicants: Florida Power & Light Company.

Description: § 205(d) Rate Filing: FPL and Seminole Revised & Restated NITSA No. 162 to be effective 1/1/2019.

Filed Date: 11/1/18.

Accession Number: 20181101–5097.

Comments Due: 5 p.m. ET 11/23/18.

Docket Numbers: ER19–253–000.

Applicants: Niagara Mohawk Power Corporation, New York Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 205: Agreement No. 2437—CRA between NMPC and MAIT to be effective 10/2/2018.

Filed Date: 11/1/18.

Accession Number: 20181101–5104.

Comments Due: 5 p.m. ET 11/23/18.

Docket Numbers: ER19–254–000.

Applicants: Grant County Interconnect, LLC.

Description: Initial rate filing: Filing of Coordination Services Agreement for Grant Plains Wind to be effective 11/2/2018.

Filed Date: 11/1/18.

Accession Number: 20181101–5108.

Comments Due: 5 p.m. ET 11/23/18.

Docket Numbers: ER19–255–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Amendment to WMPA SA No. 5094; Queue No. AD1–048 to be effective 5/14/2018.

Filed Date: 11/1/18.

Accession Number: 20181101–5113.

Comments Due: 5 p.m. ET 11/23/18.

Docket Numbers: ER19–257–000.

Applicants: Interstate Power and Light Company.

Description: § 205(d) Rate Filing: Interstate Power and Light Company Wholesale Formula Rate Application to be effective 12/31/2018.

Filed Date: 11/1/18.

Accession Number: 20181101–5118.

Comments Due: 5 p.m. ET 11/23/18.

Docket Numbers: ER19–258–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: Revisions to Update References to Interregional Agreements to be effective 1/1/2019.

Filed Date: 11/1/18.

Accession Number: 20181101–5120.

Comments Due: 5 p.m. ET 11/23/18.

Docket Numbers: ER19–259–000.

Applicants: Northern States Power Company, a Minnesota corporation.

Description: § 205(d) Rate Filing: 2018–11–01 MKPC Maple Riv Fac Const–648–0.0.0–Filing to be effective 1/1/2019.

Filed Date: 11/1/18.

Accession Number: 20181101–5125.

Comments Due: 5 p.m. ET 11/23/18.

Docket Numbers: ER19–260–000.

Applicants: Duke Energy Florida, LLC.

Description: § 205(d) Rate Filing: DEF Revisions to Joint OATT Schedule 2 to be effective 1/1/2019.

Filed Date: 11/1/18.

Accession Number: 20181101–5129.

Comments Due: 5 p.m. ET 11/23/18.

Docket Numbers: ER19–261–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: Revisions to Modify Market Participation Provisions for Jointly Owned Units to be effective 7/1/2019.

Filed Date: 11/1/18.

Accession Number: 20181101–5143.

Comments Due: 5 p.m. ET 11/23/18.

Docket Numbers: ER19–262–000.

Applicants: NorthWestern Corporation.

Description: § 205(d) Rate Filing: SA 767 6th Rev—NITSA with Basin Electric Power Cooperative, Inc. to be effective 1/1/2019.

Filed Date: 11/1/18.

Accession Number: 20181101–5149.

Comments Due: 5 p.m. ET 11/23/18.

Take notice that the Commission received the following public utility holding company filings:

Docket Numbers: PH19–2–000.

Applicants: UGI Corporation.

Description: UGI Corporation submits FERC 65–B Notice of Change in Facts of Waiver Notification.

Filed Date: 10/31/18.

Accession Number: 20181031–5301.

Comments Due: 5 p.m. ET 11/21/18.

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: November 1, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–24328 Filed 11–6–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Number: PR19–10–000.
Applicants: Louisville Gas and Electric Company.
Description: Tariff filing per 284.123(b),(e)/: Revised Stmt of Operating Conditions TCJA Surcredit to be effective 10/1/2018.
Filed Date: 10/25/18.
Accession Number: 201810255035.
Comments/Protests Due: 5 p.m. ET 11/15/18.

Docket Number: PR19–11–000.
Applicants: National Fuel Gas Distribution Corporation.
Description: Tariff filing per 284.123(b),(e)/: Compliance Filing—Application to Amend Rates to be effective 10/30/2018.
Filed Date: 10/30/18.
Accession Number: 201810305210.
Comments/Protests Due: 5 p.m. ET 11/20/18.

Docket Number: PR19–12–000.
Applicants: Washington Gas Light Company.
Description: Tariff filing per 284.123(b),(e)/: Annual Retainage Allowance and LAUF Adjustment to be effective 11/1/2018.
Filed Date: 10/31/18.
Accession Number: 201810315106.
Comments/Protests Due: 5 p.m. ET 11/21/18.

Docket Numbers: RP19–157–000.
Applicants: Transcontinental Gas Pipe Line Company, LLC.
Description: § 4(d) Rate Filing: Negotiated Rates—Atlantic Sunrise—SCS—Puddlefield to be effective 12/1/2018.
Filed Date: 10/31/18.
Accession Number: 20181031–5002.
Comments Due: 5 p.m. ET 11/13/18.

Docket Numbers: RP19–158–000.
Applicants: Fayetteville Express Pipeline LLC.
Description: § 4(d) Rate Filing: Fuel Filing on 10–31–18 to be effective 12/1/2018.
Filed Date: 10/31/18.
Accession Number: 20181031–5027.
Comments Due: 5 p.m. ET 11/13/18.

Docket Numbers: RP19–159–000.
Applicants: ETC Tiger Pipeline, LLC.
Description: § 4(d) Rate Filing: Fuel Filing on 10–31–18 to be effective 12/1/2018.
Filed Date: 10/31/18.
Accession Number: 20181031–5028.
Comments Due: 5 p.m. ET 11/13/18.

Docket Numbers: RP19–160–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: § 4(d) Rate Filing: AGT–BUG Ramapo 11–1–18 Releases to be effective 11/1/2018.
Filed Date: 10/31/18.
Accession Number: 20181031–5029.
Comments Due: 5 p.m. ET 11/13/18.

Docket Numbers: RP19–161–000.
Applicants: Dominion Energy Transmission, Inc.
Description: § 4(d) Rate Filing: DETI—October 31, 2018 Negotiated Rate Agreement to be effective 11/1/2018.
Filed Date: 10/31/18.
Accession Number: 20181031–5036.
Comments Due: 5 p.m. ET 11/13/18.

Docket Numbers: RP19–162–000.
Applicants: MIGC LLC.
Description: § 4(d) Rate Filing: Gas Quality—Oxygen Content to be effective 12/1/2018.
Filed Date: 10/31/18.
Accession Number: 20181031–5044.
Comments Due: 5 p.m. ET 11/13/18.

Docket Numbers: RP19–163–000.
Applicants: Transcontinental Gas Pipe Line Company, LLC.
Description: § 4(d) Rate Filing: Rate Schedules GSS & LSS Tracker eff 11/1/2018—Dominion to be effective 11/1/2018.
Filed Date: 10/31/18.
Accession Number: 20181031–5045.
Comments Due: 5 p.m. ET 11/13/18.

Docket Numbers: RP19–164–000.
Applicants: Nautilus Pipeline Company, L.L.C.
Description: § 4(d) Rate Filing: Negotiated Rate—BP America 630155 eff 11–1–18 to be effective 11/1/2018.
Filed Date: 10/31/18.
Accession Number: 20181031–5046.
Comments Due: 5 p.m. ET 11/13/18.

Docket Numbers: RP19–165–000.
Applicants: WBI Energy Transmission, Inc.
Description: § 4(d) Rate Filing: 2018 Section 4 Rate Case to be effective 12/1/2018.
Filed Date: 10/31/18.
Accession Number: 20181031–5048.
Comments Due: 5 p.m. ET 11/13/18.

Docket Numbers: RP19–166–000.
Applicants: Transcontinental Gas Pipe Line Company, LLC.
Description: § 4(d) Rate Filing: Rate Schedules LSS & SS–2 Tracker eff 11/1/2018—National Fuel to be effective 11/1/2018.
Filed Date: 10/31/18.
Accession Number: 20181031–5052.
Comments Due: 5 p.m. ET 11/13/18.

Docket Numbers: RP19–167–000.
Applicants: Millennium Pipeline Company, LLC.
Description: § 4(d) Rate Filing: Negotiated Rate Agmt—DTE to be effective 11/1/2018.
Filed Date: 10/31/18.
Accession Number: 20181031–5073.
Comments Due: 5 p.m. ET 11/13/18.

Docket Numbers: RP19–168–000.
Applicants: Texas Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Cap Rel Neg Rate Agmt (Kaiser 35448 to Tenaska 37572) to be effective 11/1/2018.
Filed Date: 10/31/18.
Accession Number: 20181031–5087.
Comments Due: 5 p.m. ET 11/13/18.

Docket Numbers: RP19–169–000.
Applicants: Texas Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Neg Rate Agmt from Perm Cap Rel (RE Gas 35433, 34955 to PennEnergy 37580, 37579) to be effective 11/1/2018.
Filed Date: 10/31/18.
Accession Number: 20181031–5088.
Comments Due: 5 p.m. ET 11/13/18.

Docket Numbers: RP19–170–000.
Applicants: Texas Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Cap Rel Neg Rate Agmts (Gulfport 34939, 35446, to EcoEnergy 37574, 37575) to be effective 11/1/2018.
Filed Date: 10/31/18.
Accession Number: 20181031–5093.
Comments Due: 5 p.m. ET 11/13/18.

Docket Numbers: RP19–171–000.
Applicants: Texas Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Cap Rel Neg Rate Agmt (EM Energy 35451 to Eco-Energy 37581) to be effective 11/1/2018.
Filed Date: 10/31/18.
Accession Number: 20181031–5094.
Comments Due: 5 p.m. ET 11/13/18.

Docket Numbers: RP19–172–000.
Applicants: Wyoming Interstate Company, L.L.C.
Description: § 4(d) Rate Filing: FL&U Quarterly Update Filing to be effective 12/1/2018.
Filed Date: 10/31/18.
Accession Number: 20181031–5098.
Comments Due: 5 p.m. ET 11/13/18.

Docket Numbers: RP19–174–000.
Applicants: Trailblazer Pipeline Company LLC.
Description: § 4(d) Rate Filing: Neg Rate 2018–10–31 MS (2), Koch, BP, GP to be effective 11/1/2018.
Filed Date: 10/31/18.
Accession Number: 20181031–5103.
Comments Due: 5 p.m. ET 11/13/18.

Docket Numbers: RP19–175–000.
Applicants: Northern Border Pipeline Company.
Description: § 4(d) Rate Filing: Negotiated Rate Agreement—Nicor to be effective 11/1/2018.
Filed Date: 10/31/18.
Accession Number: 20181031–5104.
Comments Due: 5 p.m. ET 11/13/18.

Docket Numbers: RP19–176–000.
Applicants: Texas Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Neg Rate Agmt from Perm Cap Rel (BP 28815 to Riverbend 37584) to be effective 10/31/2018.
Filed Date: 10/31/18.
Accession Number: 20181031–5107.
Comments Due: 5 p.m. ET 11/13/18.

Docket Numbers: RP19–177–000.
Applicants: Natural Gas Pipeline Company of America.
Description: § 4(d) Rate Filing: Negotiated Rate Agreement-CapacityRelease Macquarie 10312018 to be effective 10/31/2018.
Filed Date: 10/31/18.
Accession Number: 20181031–5108.
Comments Due: 5 p.m. ET 11/13/18.

Docket Numbers: RP19–178–000.
Applicants: Gulf Crossing Pipeline Company LLC.
Description: § 4(d) Rate Filing: Amendment to Neg Rate Agmt (Enterprise 12–11) to be effective 11/1/2018.
Filed Date: 10/31/18.
Accession Number: 20181031–5127.
Comments Due: 5 p.m. ET 11/13/18.

Docket Numbers: RP19–179–000.
Applicants: Gulf South Pipeline Company, LP.
Description: § 4(d) Rate Filing: Cap Rel Neg Rate Agmt (FPL 41619 to Spire 50228) to be effective 11/1/2018.
Filed Date: 10/31/18.
Accession Number: 20181031–5129.
Comments Due: 5 p.m. ET 11/13/18.

Docket Numbers: RP19–180–000.
Applicants: Gulf South Pipeline Company, LP.
Description: § 4(d) Rate Filing: Cap Rel Neg Rate Agmt (Methanex 42805 to BP 50220) to be effective 11/1/2018.
Filed Date: 10/31/18.
Accession Number: 20181031–5130.
Comments Due: 5 p.m. ET 11/13/18.

Docket Numbers: RP19–181–000.
Applicants: Gulf South Pipeline Company, LP.
Description: § 4(d) Rate Filing: Cap Rel Neg Rate Agmts (Atlanta 8438 to various eff 11/1/2018) to be effective 11/1/2018.
Filed Date: 10/31/18.
Accession Number: 20181031–5132.
Comments Due: 5 p.m. ET 11/13/18.

Docket Numbers: RP19–182–000.
Applicants: Central Kentucky Transmission Company.
Description: eTariff filing per 1430: Central Kentucky 501–G Report.
Filed Date: 10/31/18.
Accession Number: 20181031–5172.
Comments Due: 5 p.m. ET 11/13/18.

Docket Numbers: RP19–183–000.
Applicants: NEXUS Gas Transmission, LLC.
Description: § 4(d) Rate Filing: NegRates—DTE Gas & DTE Electric Amendments to be effective 11/1/2018.
Filed Date: 10/31/18.
Accession Number: 20181031–5175.
Comments Due: 5 p.m. ET 11/13/18.

Docket Numbers: RP19–184–000.
Applicants: Alliance Pipeline L.P.
Description: eTariff filing per 1430: Alliance Form No. 501–G Waiver Request.
Filed Date: 10/31/18.
Accession Number: 20181031–5180.
Comments Due: 5 p.m. ET 11/13/18.

Docket Numbers: RP19–185–000.
Applicants: Texas Eastern Transmission, LP.
Description: § 4(d) Rate Filing: Non-conforming Agreement—CFE International Contract 911557 to be effective 11/1/2018.
Filed Date: 10/31/18.
Accession Number: 20181031–5182.
Comments Due: 5 p.m. ET 11/13/18.

Docket Numbers: RP19–186–000.
Applicants: NEXUS Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Negrates—Chesapeake Releases eff 11/1/2018 to be effective 11/1/2018.
Filed Date: 10/31/18.
Accession Number: 20181031–5183.
Comments Due: 5 p.m. ET 11/13/18.

Docket Numbers: RP19–188–000.
Applicants: Transcontinental Gas Pipe Line Company, LLC.
Description: § 4(d) Rate Filing: Negotiated Rates—Cherokee AGL—Replacement Shippers—Nov 2018 to be effective 11/1/2018.
Filed Date: 10/31/18.
Accession Number: 20181031–5192.
Comments Due: 5 p.m. ET 11/13/18.

Docket Numbers: RP19–190–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: § 4(d) Rate Filing: NegRate—NStar to Constellation 798143 to be effective 11/1/2018.
Filed Date: 10/31/18.
Accession Number: 20181031–5202.
Comments Due: 5 p.m. ET 11/13/18.

Docket Numbers: RP19–191–000.
Applicants: Ruby Pipeline, L.L.C.
Description: § 4(d) Rate Filing: Update Filing—Fuel and EPC to be effective 12/1/2018.
Filed Date: 10/31/18.
Accession Number: 20181031–5206.
Comments Due: 5 p.m. ET 11/13/18.

Docket Numbers: RP19–192–000.
Applicants: Rover Pipeline LLC.
Description: § 4(d) Rate Filing: Assignment of Non-Conforming Agreement to be effective 11/1/2018.
Filed Date: 10/31/18.
Accession Number: 20181031–5212.
Comments Due: 5 p.m. ET 11/13/18.

Docket Numbers: RP19–193–000.
Applicants: Texas Eastern Transmission, LP.
Description: § 4(d) Rate Filing: Negotiated Rates eff 11/1/2018—ConEd NJNY Releases #2 to be effective 11/1/2018.
Filed Date: 10/31/18.
Accession Number: 20181031–5213.
Comments Due: 5 p.m. ET 11/13/18.

Docket Numbers: RP19–194–000.
Applicants: Rover Pipeline LLC.
Description: § 4(d) Rate Filing: Non-Conforming Agreement List Update on 10/31/18 to be effective 11/1/2018.
Filed Date: 10/31/18.
Accession Number: 20181031–5214.
Comments Due: 5 p.m. ET 11/13/18.

Docket Numbers: RP19–195–000.
Applicants: Kinder Morgan Louisiana Pipeline LLC.
Description: § 4(d) Rate Filing: Compliance Filing—Docket No. CP17–22–000—Sabine Pass Expansion Project to be effective 12/1/2018.
Filed Date: 10/31/18.
Accession Number: 20181031–5215.
Comments Due: 5 p.m. ET 11/13/18.

Docket Numbers: RP19–196–000.
Applicants: Texas Eastern Transmission, LP.
Description: § 4(d) Rate Filing: Negotiated rates—MC Global Releases eff 11/1/2018 to be effective 11/1/2018.
Filed Date: 10/31/18.
Accession Number: 20181031–5216.
Comments Due: 5 p.m. ET 11/13/18.

Docket Numbers: RP19–197–000.
Applicants: Kinder Morgan Louisiana Pipeline LLC.
Description: § 4(d) Rate Filing: Fuel Rate Change and Other Provisions to be effective 12/1/2018.
Filed Date: 10/31/18.
Accession Number: 20181031–5217.
Comments Due: 5 p.m. ET 11/13/18.

Docket Numbers: RP19–198–000.
Applicants: Rockies Express Pipeline LLC.
Description: § 4(d) Rate Filing: Neg Rate 2018–10–31 8 E2W to be effective 11/1/2018.
Filed Date: 10/31/18.
Accession Number: 20181031–5218.
Comments Due: 5 p.m. ET 11/13/18.

Docket Numbers: RP19–199–000.

Applicants: Colorado Interstate Gas Company, L.L.C.
Description: § 4(d) Rate Filing: Negotiated Rate Update Filing (CFI and Smith) to be effective 12/1/2018.
Filed Date: 10/31/18.
Accession Number: 20181031–5223.
Comments Due: 5 p.m. ET 11/13/18.
Docket Numbers: RP19–200–000.
Applicants: Kern River Gas Transmission Company.
Description: § 4(d) Rate Filing: 2018 November Negotiated Rates to be effective 11/1/2018.
Filed Date: 10/31/18.
Accession Number: 20181031–5231.
Comments Due: 5 p.m. ET 11/13/18.
Docket Numbers: RP19–201–000.
Applicants: Florida Gas Transmission Company, LLC.
Description: § 4(d) Rate Filing: New Service Agreement with Shell filed 10/31/18 to be effective 12/1/2018.
Filed Date: 10/31/18.
Accession Number: 20181031–5244.
Comments Due: 5 p.m. ET 11/13/18.
Docket Numbers: RP19–202–000.
Applicants: Florida Gas Transmission Company, LLC.
Description: § 4(d) Rate Filing: Update Non-Conforming List (Shell) on 10/31/18 to be effective 12/1/2018.
Filed Date: 10/31/18.
Accession Number: 20181031–5248.
Comments Due: 5 p.m. ET 11/13/18.
Docket Numbers: RP19–204–000.
Applicants: Texas Eastern Transmission, LP.
Description: § 4(d) Rate Filing: TETLP ASA DEC 2018 FILING to be effective 12/1/2018.
Filed Date: 10/31/18.
Accession Number: 20181031–5259.
Comments Due: 5 p.m. ET 11/13/18.
Docket Numbers: RP19–205–000.
Applicants: Ozark Gas Transmission, L.L.C.
Description: eTariff filing per 1430: OGT FERC Form 501–G Waiver Request.
Filed Date: 10/31/18.
Accession Number: 20181031–5264.
Comments Due: 5 p.m. ET 11/13/18.
Docket Numbers: RP19–206–000.
Applicants: Mississippi Canyon Gas Pipeline, L.L.C.
Description: eTariff filing per 1430: MCGP Extension to file Form 501–G.
Filed Date: 10/31/18.
Accession Number: 20181031–5274.
Comments Due: 5 p.m. ET 11/5/18.
Docket Numbers: RP19–207–000.
Applicants: Guardian Pipeline, L.L.C.
Description: § 4(d) Rate Filing: Non-Conforming and Negotiated Rate Agreement—Wisconsin Public Service Corp to be effective 11/1/2018.
Filed Date: 10/31/18.
Accession Number: 20181031–5282.
Comments Due: 5 p.m. ET 11/13/18.
Docket Numbers: RP19–208–000.
Applicants: Transcontinental Gas Pipe Line Company, LLC.
Description: § 4(d) Rate Filing: Rate Schedules LSS and SS–2 PS/GHG Tracker Filing eff 11/1/2017 to be effective 11/1/2017.
Filed Date: 10/31/18.
Accession Number: 20181031–5283.
Comments Due: 5 p.m. ET 11/13/18.
Docket Numbers: RP19–210–000.
Applicants: Northern Natural Gas Company.
Description: § 4(d) Rate Filing: 20181031 Negotiated Rates to be effective 11/1/2018.
Filed Date: 10/31/18.
Accession Number: 20181031–5285.
Comments Due: 5 p.m. ET 11/13/18.
Docket Numbers: RP19–211–000.
Applicants: Columbia Gulf Transmission, LLC.
Description: § 4(d) Rate Filing: Periodic TRA—2018 to be effective 12/1/2018.
Filed Date: 10/31/18.
Accession Number: 20181031–5286.
Comments Due: 5 p.m. ET 11/13/18.
Docket Numbers: RP19–213–000.
Applicants: Fayetteville Express Pipeline LLC.
Description: § 4(d) Rate Filing: Service Agreement Assignment Filing on 10/31/18 to be effective 11/1/2018.
Filed Date: 10/31/18.
Accession Number: 20181031–5288.
Comments Due: 5 p.m. ET 11/13/18.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

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Dated: November 1, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–24329 Filed 11–6–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP19–8–000]

OkTex Pipeline Company, L.L.C.; Notice of Request Under Blanket Authorization

Take notice that on October 22, 2018, OkTex Pipeline Company, L.L.C. (OkTex), 100 West 5th Street, Tulsa, Oklahoma 74103, filed a prior notice application pursuant to sections 157.205(b), 157.208(c) and 157.210 of the Federal Energy Regulatory Commission's (Commission) regulations under the Natural Gas Act (NGA), and OkTex's blanket certificate issued in Docket No. CP92–439–000. OkTex requests authorization to acquire, own, operate, and maintain in interstate commerce existing natural gas pipeline facilities, in Beckham County, Oklahoma, which are currently owned and operated by ONEOK Gas Transportation, L.L.C., an intrastate pipeline affiliate of OkTex, all as more fully set forth in the application, which is open to the public for inspection. The filing may also be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Specifically, OkTex proposes to acquire 2.52 miles of 20-inch diameter natural gas pipeline and related metering facilities, as more fully described in the prior notice application.

Any questions regarding this application should be directed to Denise Adams, Director, Rates and regulatory Compliance, OkTex Pipeline Company, L.L.C., 100 West 5th Street, Tulsa, Oklahoma 74103 or phone (918) 732–1408, or by email at *denise.adams@oneok.com.*

Any person or the Commission's staff may, within 60 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to section 157.205 of the regulations under the NGA (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn

within 30 days after the allowed time for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding, or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, and will be notified of any meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenter will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 3 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

Dated: November 1, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–24327 Filed 11–6–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC19–4–000]

Commission Information Collection Activities (FERC–714); Comment Request Extension

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Comment request.

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–714 (Annual Electric Balancing Authority Area and Planning Area Report) to the Office of Management and Budget (OMB) for review of the information collection requirements.

DATES: Comments on the collections of information are due by January 7, 2019.

ADDRESSES: You may submit comments (identified by Docket No. IC19–4–000) by either of the following methods:

- *eFiling at Commission's Website: http://www.ferc.gov/docs-filing/efiling.asp.*
- *Mail/Hand Delivery/Courier:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp.* For user assistance contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* by telephone at (202) 502–8663, and by fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION:

Title: FERC–714, Annual Electric Balancing Authority Area and Planning Area Report.

OMB Control No.: 1902–0140.

Type of Request: Three-year extension of the FERC–714 information collection requirements with no changes to the current reporting requirements.

Abstract: The Commission uses the FERC–714 data to analyze power system operations. These analyses estimate the effect of changes in power system operations resulting from the installation of a new generating unit or plant, transmission facilities, energy transfers between systems, and/or new points of interconnections. The FERC–714 data assists in providing a broad picture of interconnected balancing authority area operations including comprehensive information of balancing authority area generation, actual and scheduled inter-balancing authority area power transfers, and net energy for load, summer and winter generation peaks and system lambda. The Commission also uses the data to prepare status reports on the electric utility industry including a review of inter-balancing authority area bulk power trade information.

The Commission uses the collected data from planning areas to monitor forecasted demands by electric utilities with fundamental demand responsibilities and to develop hourly demand characteristics.

Type of Respondent: Electric utility balancing authorities and planning areas in the United States.

Estimate of Annual Burden [1]*:* The Commission estimates the annual public reporting burden and cost [2] (rounded) for the information collection as follows:

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[1] Burden is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, refer to 5 CFR 1320.3.

[2] The hourly cost (for salary plus benefits) uses the figures from the Bureau of Labor Statistics, May 2017, for the listed reporting requirements. These figures include salary (*https://www.bls.gov/oes/current/naics2_22.htm*) and benefits *http://www.bls.gov/news.release/ecec.nr0.htm*) and are:

- Management (Code 11–0000), $94.28/hr.
- Computer and mathematical (Code 15–0000), $63.25/hr.
- Electrical Engineers (Code 17–2071), $66.90/hr.
- Economist (Code 19–3011), $71.98/hr.
- Computer and Information Systems Managers (Code 11–3021), $96.51/hr.
- Accountants and Auditors (Code 13–2011), $56.59/hr.
- Transportation, Storage, and Distribution Managers (Code 11–3071), $75.34/hr.
- Power Distributors and Dispatchers (Code 51–8012), $53.48/hr.

The average hourly cost (wages plus benefits) for the above wages is $72.29/hour (rounded $72.00).

FERC–714

[Annual Electric Balancing Authority Area and Planning Area Report]

Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1) * (2) = (3)	Average burden and cost per response (4)	Total annual burden hours and total annual cost (3) * (4) = (5)	Cost per respondent ($) (5) ÷ (1)
177	1	177	87 $6,264.00	15,399 $1,108,728.00	$6,264.00

Comments: Comments are invited on: (1) Whether the collections of information are 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 estimates of the burden and cost of the collections of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collections; and (4) ways to minimize the burden of the collections of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: November 1, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–24331 Filed 11–6–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER02–2001–020; ER12–327–000; ER12–2309–000; ER16–1458–000; ER12–733–001]

Electric Quarterly Reports; L&L Energy LLC; Bartram Lane LLC; Aspirity Energy, LLC; Promet Energy Partners, LLC; Notice of Revocation of Market-Based Rate Authority and Termination of Electric Market-Based Rate Tariff

On August 21, 2018, the Commission issued an order announcing its intent to revoke the market-based rate authority of the public utilities listed in the caption of that order, which included the companies listed in the caption above, which had failed to file their required Electric Quarterly Reports.[1] The Commission directed those public utilities to file the required Electric Quarterly Reports within 15 days of the date of issuance of the order or face revocation of their authority to sell power at market-based rates and termination of their electric market-based rate tariffs.[2]

The time period for compliance with the August 21 Order has elapsed. The above-captioned companies failed to file their delinquent Electric Quarterly Reports. The Commission hereby revokes, effective as of the date of issuance of this notice, the market-based rate authority and terminates the electric market-based rate tariff of each of the companies who are named in the caption of this order.

Dated: November 1, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–24330 Filed 11–6–18; 8:45 am]

BILLING CODE 6717–01–P

[1] *Electric Quarterly Reports,* 164 FERC ¶ 61,122 (2018) (August 21 Order).

[2] *Id.* at Ordering Paragraph A.

EXPORT-IMPORT BANK

[Public Notice: 2018–6021]

Agency Information Collection Activities: Comment Request

AGENCY: Export-Import Bank of the United States.

ACTION: Submission for OMB Review and Comments Request.

SUMMARY: The Export-Import Bank of the United States (EXIM), as a part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995.

EXIM plans to invite approximately 150 U.S. exporters and commercial lending institutions that have used EXIM's short-, medium-, and long-term programs over the previous calendar year with an electronic invitation to participate in the online survey. The proposed survey will ask participants to evaluate the competitiveness of EXIM's programs and how the programs compare to those of foreign credit agencies. EXIM will use the responses to develop an analysis of the Bank's competitiveness.

The survey can be reviewed at: *http://www.exim.gov/sites/default/files/pub/pending/EXIM_Competitiveness_Report_Survey.pdf.*

DATES: Comments should be received on or before January 7, 2019 to be assured of consideration.

ADDRESSES: Comments may be submitted electronically on *WWW.REGULATIONS.GOV* (EIB 00–02) or by email *Mia.Johnson@exim.gov* or by mail to Mia L. Johnson, Export-Import Bank of the United States, 811 Vermont Ave. NW Washington, DC 20571 Attn: OMB 3048–14–01

SUPPLEMENTARY INFORMATION:

Titles and Form Number: EIB 00–02 Annual Competitiveness Report Survey of Exporters and Bankers.

OMB Number: 3048–0004.

Type of Review: Renewal.

Need and Use: The information requested enables EXIM to evaluate and assess its competitiveness with the programs and activities of the major OECD official ECAs and to report on the Bank's status in this regard.

Affected Public:

The number of respondents: 150.

Estimated time per respondents: 90 minutes.

The frequency of response: Annually.

Annual hour burden: 225 total hours.

Government Expenses:

Reviewing time per response: 45 minutes.

Responses per year: 150.

Reviewing time per year: 112.5 hours.

Average Wages per hour: $42.50.

Average cost per year: $4,781.25 (time * wages).

Benefits and overhead: 20%.

Total Government Cost: $5737.5.

Bassam Doughman,

IT Specialist.

[FR Doc. 2018–24317 Filed 11–6–18; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on the agreements to the Secretary by email at *Secretary@fmc.gov,* or by mail, Federal Maritime Commission, Washington, DC 20573, within twelve days of the date this notice appears in the **Federal Register**. Copies of the agreements are available through the Commission's website (*www.fmc.gov*) or by contacting the Office of Agreements at (202)-523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 010979–065.

Agreement Name: Caribbean Shipowners Association Agreement.

Parties: Crowley Caribbean Services LLC; Hybur Ltd.; King Ocean Services Limited; Seaboard Marine, Ltd.; and Tropical Shipping and Construction Company Limited.

Filing Party: Wayne Rohde; Cozen O'Connor.

Synopsis: The amendment deletes Zim Integrated Shipping Services, Ltd. as a party to the Agreement.

Proposed Effective Date: 11/1/2018.

Location: http://fmcinet/Fmc.Agreements.Web/Public/AgreementHistory/1194.

Agreement No.: 012392–001.

Agreement Name: ''K'' Line/Liberty Global Line Discussion Agreement.

Parties: Kawasaki Kisen Kaisha, Ltd. and Liberty Global Logistics LLC.

Filing Party: Brooke Shapiro; Winston & Strawn LLP.

Synopsis: The amendment adds Mexico to the geographic scope of the Agreement.

Proposed Effective Date: 12/12/2018.

Location: http://fmcinet/Fmc.Agreements.Web/Public/AgreementHistory/1010.

Agreement No.: 201281.

Agreement Name: U.S. Ocean, L.L.C./Liberty Global Logistics LLC Space Charter.

Parties: U.S. Ocean, L.L.C. and Liberty Global Logistics LLC.

Filing Party: Bryant E. Gardner; Winston & Strawn LLP.

Synopsis: The Agreement authorizes the parties to charter space to/from each other in the trade between the U.S. and Germany, Belgium, Spain, Morocco, France, Italy, Greece, Turkey, Romania, Russia, Oman, United Arab Emirates, Qatar, Bahrain, Saudi Arabia, Kuwait, Iraq, Korea, Japan, China, and Australia.

Proposed Effective Date: 12/13/2018.

Location: http://fmcinet/Fmc.Agreements.Web/Public/AgreementHistory/20301.

Dated: November 2, 2018.

JoAnne O' Bryant,

Program Analyst.

[FR Doc. 2018–24356 Filed 11–6–18; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 3, 2018.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Fidelity Company, Dubuque, Iowa;* to acquire voting shares of State Bank, New Hampton, Iowa.

B. Federal Reserve Bank of San Francisco (Gerald C. Tsai, Director, Applications and Enforcement) 101 Market Street, San Francisco, California 94105–1579:

1. *Jiko Group, Inc., Berkeley, California;* to become a bank holding company, by acquiring voting shares of Mid-Central Federal Savings Bank, Wadena, Minnesota, following Mid-Central's conversion to a national bank.

In connection with this application, Applicant has applied to acquire Jiko Technologies, Inc., and Jiko Securities, Inc., both of Berkley, California, and thereby engage in date processing, agency transactional services and investment transactional activities as principal pursuant to sections 225.28(b)(7)(8) and (14) of Regulation Y.

Board of Governors of the Federal Reserve System, November 1, 2018.

Ann Misback,

Secretary of the Board.

[FR Doc. 2018–24275 Filed 11–6–18; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 4, 2018.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Heartland Bancorp, Inc., Bloomington, Illinois;* to acquire voting shares of Lincoln S.B. Corp., and thereby indirectly acquire State Bank of Lincoln, both of Lincoln, Illinois.

Board of Governors of the Federal Reserve System, November 2, 2018.

Ann Misback,

Secretary of the Board.

[FR Doc. 2018–24346 Filed 11–6–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the proposed information collection project ''Child Hospital Consumer Assessment of Healthcare Providers and Systems (Child HCAHPS) Survey Database.''

DATES: Comments on this notice must be received by January 7, 2019.

ADDRESSES: Written comments should be submitted to: Doris Lefkowitz, Reports Clearance Officer, AHRQ, by email at *doris.lefkowitz@AHRQ.hhs.gov*.

Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from the AHRQ Reports Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427–1477, or by emails at *doris.lefkowitz@AHRQ.hhs.gov*.

SUPPLEMENTARY INFORMATION:

Proposed Project

Child Hospital Consumer Assessment of Healthcare Providers and Systems (Child HCAHPS) Survey Database

In accordance with the Paperwork Reduction Act, 44 U.S.C. 3501–3521, AHRQ invites the public to comment on this proposed information collection. The CAHPS Child Hospital Survey (Child HCAHPS) assesses the experiences of pediatric patients (less than 18 years old) and their parents or guardians with inpatient care. It complements the CAHPS Adult Hospital Survey (HCAHPS), which asks adult inpatients about their experiences. In contrast to the adult version of HCAHPS, there is no publicly available comprehensive database for Child HCAHPS that allows survey users to analyze and compare their survey results in order to assess their performance and identify opportunities for improvement. The proposed Child HCAHPS Database will fill this critical information gap by creating a voluntary database available to all Child HCAHPS users to support both quality improvement and research to enhance the patient-centeredness of care delivered to pediatric hospital patients.

AHRQ supported the development of the Child HCAHPS survey by the Center of Excellence for Pediatric Quality Measurement at Boston Children's Hospital. The Child HCAHPS survey is currently used by approximately 300 hospitals. Hospitals using Child HCAHPS, including the 25 hospital members of the Pediatric Patient Experience Collaborative, have expressed strong interest in working with AHRQ to develop a database that can provide a centralized repository of data.

Rationale for the information collection. Like the survey instrument itself and related toolkit materials to support survey implementation, aggregated Child HCAHPS Database results will be made publicly available on AHRQ's CAHPS website. Technical assistance will be provided by AHRQ through its contractor at no charge to hospitals to facilitate the access and use of these materials for quality improvement and research. Technical assistance will also be provided to support Child HCAHPS data submission.

The Child HCAHPS Database will support AHRQ's goals of promoting improvements in the quality and patient-centeredness of health care in pediatric hospital settings. This research has the following goals:

1. Improve care provided by individual hospitals and hospital systems.
2. Offer several products and services, including providing survey results presented through an Online Reporting System, summary chartbooks, custom analyses, private reports and data for research purposes.
3. Provides information to help identify strengths and areas with potential for improvement in patient care.

This study is being conducted by AHRQ through its contractor, Westat, pursuant to AHRQ's statutory authority to conduct and support research on health care and on systems for the delivery of such care, including activities with respect to: The quality, effectiveness, efficiency, appropriateness and value of health care services; quality measurement and improvement; and health surveys and database development. 42 U.S.C. 299a(a)(1), (2), and (8).

Method of Collection

To achieve the goals of this project, the following activities and data collections that constitute information collection under the Paperwork Reduction Act (PRA) will be implemented:

Submission Notifications and Instructions. Clear instructions and notifications are of paramount importance for successful submission of valid data, seamless report dissemination, and streamlined communication with survey vendors, hospitals, or other submitters. Procedures for data submission through the data submission platform will include the following:

- Registration with the submission website to obtain an account with a secure username and password: The point-of-contact (POC), often the hospital, completes a number of data submission steps and forms, beginning with the completion of the online registration form. The purpose of this form is to collect basic contact information about the organization and initiate the registration process;
- Submission of signed Data Use Agreements (DUAs) and survey questionnaires. The purpose of the data use agreement, completed by the participating hospital, is to state how data submitted by or on behalf of hospitals will be used and provides confidentiality assurances;
- Submission of hospital information form. The purpose of this form completed by the participating organization, is to collect background characteristics of the hospital; and
- Follow-up with submitters in the event of a rejected file, to assist in making corrections and resubmitting the file.

With the approval and addition of the Child HCAHPS Database, data submitted will be used to produce three types of reporting products:

- *Hospital Feedback Reports.* Hospitals that submit data will have access to a customized report that presents findings for their individual submission along with results from the database overall. These ''private'' hospital feedback reports will display sortable results for each of the Child HCAHPS core composite measures and for each individual survey item that forms the composite measure.
- *Child HCAHPS Chartbook.* A summary-level Chartbook will be compiled to display top box and other

proportional scores for the Child HCAHPS items and composite measures broken out by selected hospital characteristics (*e.g.,* region, hospital size, ownership and affiliation, etc.).

• *Online Reporting System.* Aggregate results also will be made publicly available through an interactive, web-based system that allows users to view survey item and composite results (or build and download a custom report) in a variety of formats.

Estimated Annual Respondent Burden

Exhibit 1 shows the estimated burden hours for the respondents to participate in the database. The 302 POCs in Exhibit 1 are a combination of an estimated 300 hospitals that currently administer the Child HCAHPS survey and the two survey vendors assisting them.

Each hospital will register online for submission. The online Registration form will require about 5 minutes to complete. Each submitter will also complete a hospital information form of information about each hospital such as the name of the hospital, hospital size, state, etc. The online hospital information form takes on average 5 minutes to complete. The data use agreement will be completed by each of the 300 participating hospitals. Survey vendors do not sign or submit DUAs. The DUA requires about 3 minutes to sign and return by fax or mail. Each submitter, which in most cases will be the survey vendor performing the data collection, will provide a copy of their questionnaire and the survey data file in the required file format. Survey data files must conform to the data file layout specifications provide by the Child HCAHPS Database. Since the unit of analysis is at the hospital level, submitters will upload one data file per hospital. Once a data file is uploaded, the file will be automatically checked to ensure it conforms to the specifications and a data file status report will be produced and made available to the submitter. Submitters will review each report and will be expected to correct any errors in their data file and resubmit if necessary. It will take about one hour to submit the data for each hospital. The total burden is estimated to be 365 hours annually.

EXHIBIT 1—ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents/ POCs	Number of responses per POC	Hours per response	Total burden hours
Registration Form	300	1	5/60	25
Hospital Information Form	300	1	5/60	25
Data Use Agreement	300	1	3/60	15
Data Files Submission	2	150	1	300
Total	902	NA	NA	365

Exhibit 2 shows the estimated annualized cost burden based on the respondents' time to complete one submission process. The cost burden is estimated to be $16,722 annually.

EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN

Form name	Number of respondents	Total burden hours	Average hourly wage rate *	Total cost burden
Registration Form	300	25	[a] 53.69	$1,342
Hospital Information Form	300	25	[a] 53.69	1,342
Data Use Agreement	300	15	[b] 94.25	1,414
Data Files Submission	2	300	[c] 42.08	12,624
Total	902	365	NA	16,722

* National Compensation Survey: Occupational wages in the United States May 2017, "U.S. Department of Labor, Bureau of Labor Statistics."
(a) Based on the mean hourly wage for Medical and Health Services Managers (11–9111).
(b) Based on the mean hourly wage for Chief Executives (11–1011).
(c) Based on the mean hourly wages for Computer Programmer (15–1131).

Request for Comments

In accordance with the Paperwork Reduction Act, comments on AHRQ's information collection are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of AHRQ's health care research and health care information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) 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 upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Francis D. Chesley, Jr.,

Acting Deputy Director.

[FR Doc. 2018–24339 Filed 11–6–18; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Meeting of the National Advisory Council for Healthcare Research and Quality

AGENCY: Agency for Healthcare Research and Quality (AHRQ), HHS.

ACTION: Notice of public meeting.

SUMMARY: In accordance with its statutory mandate, the Council is to advise the Secretary of the Department of Health and Human Services and the Director of AHRQ on matters related to AHRQ's conduct of its mission including providing guidance on (A) priorities for health care research, (B) the field of health care research including training needs and information dissemination on health care quality and (C) the role of the Agency in light of private sector activity and opportunities for public private partnerships.

DATES: The meeting will be held on Thursday, November 15, 2018, from 8:30 a.m. to 2:45 p.m.

ADDRESSES: The meeting will be held at AHRQ, 5600 Fishers Lane, Rockville, Maryland, 20857.

FOR FURTHER INFORMATION CONTACT: Jaime Zimmerman, Designated Management Official, at the Agency for Healthcare Research and Quality, 5600 Fishers Lane, Mail Stop 06E37A, Rockville, Maryland 20857, (301) 427–1456. For press-related information, please contact Karen Migdail at (301) 427–1855 or *Karen.Migdail@ahrq.hhs.gov.*

If sign language interpretation or other reasonable accommodation for a disability is needed, please contact the Food and Drug Administration (FDA) Office of Equal Employment Opportunity and Diversity Management on (301) 827–4840, no later than Thursday, November 1, 2018. The agenda, roster, and minutes will be available from Ms. Bonnie Campbell, Committee Management Officer, Agency for Healthcare Research and Quality, 5600 Fishers Lane, Rockville, Maryland 20857. Ms. Campbell's phone number is (301) 427–1554.

SUPPLEMENTARY INFORMATION:

I. Purpose

In accordance with section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 2, this notice announces a meeting of the National Advisory Council for Healthcare Research and Quality. The National Advisory Council for Healthcare Research and Quality is authorized by Section 941 of the Public Health Service Act, 42 U.S.C. 299c. In accordance with its statutory mandate, the Council is to advise the Secretary of the Department of Health and Human Services and the Director of AHRQ on matters related to AHRQ's conduct of its mission including providing guidance on (A) priorities for health care research, (B) the field of health care research including training needs and information dissemination on health care quality and (C) the role of the Agency in light of private sector activity and opportunities for public private partnerships. The Council is composed of members of the public, appointed by the Secretary, and Federal ex-officio members specified in the authorizing legislation.

II. Agenda

On Thursday, November 15, 2018, the Council meeting will convene at 8:30 a.m., with the call to order by the Council Chair and approval of previous Council summary notes. The meeting is open to the public and will be available via webcast at *www.webconferences.com/ahrq.* The meeting will begin with an update on AHRQ's budget, programs and initiatives. The agenda will also include updates on AHRQ Data, Analytics, and Insights and AHRQ's Support of Secretary Priorities including, opioids, value, and drug pricing. The final agenda will be available on the AHRQ website at *www.AHRQ.gov* no later than Thursday, November 8, 2018.

Francis D. Chesley, Jr.,

Acting Deputy Director.

[FR Doc. 2018–24340 Filed 11–6–18; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Information Collection for HHS Certification of Foreign Adult Victims of Human Trafficking.

OMB No.: 0970–0454.

Description: The Trafficking Victims Protection Act, Public Law 106–386 (TVPA) requires the Department of Health and Human Services (HHS) to certify adult alien (''foreign'') victims of severe forms of trafficking in persons (''human trafficking'') who are willing to assist law enforcement in the investigation and prosecution of human trafficking, unless unable to cooperate due to physical or psychological trauma, and who have either made a bona fide application for T nonimmigrant status that has not been denied or been granted Continued Presence (CP) from the U.S. Department of Homeland Security (DHS). The Office on Trafficking in Persons (OTIP) within the HHS Administration for Children and Families issues HHS Adult Certification Letters that grant adult foreign victims of human trafficking eligibility for federal and state benefits and services to the same extent as refugees.

In general, OTIP initiates the certification process when it receives a notice from DHS that DHS has granted a foreign victim of trafficking CP or T nonimmigrant status, or has determined an application for T nonimmigrant status is bona fide. To issue HHS Adult Certification Letters, it is necessary for OTIP to collect information from a victim, or a victim's representative, such as an attorney, case manager, or law enforcement victim specialist, including an address to send the HHS Certification Letter.

OTIP will ask if the victim is in need of a case management services and the current location (city, state) of the victim, and refer the victim to an appropriate service provider in his or her area, if requested. OTIP will also ask about the victim's primary language and urgent concerns, such as medical care or housing, and transmit this information to the service provider with the victim's consent.

Finally, OTIP reports information on victim certification to provide to Congress in an annual report on U.S. Government activities to combat trafficking that is prepared by the U.S. Department of Justice. Congress requires HHS and other appropriate Federal agencies to report information on the number of persons who received benefits or other services under subsections (b) and (f) of section 7105 of Title 22 of the U.S. Code in connection with programs or activities funded or administered by HHS. HHS may include in these annual reports additional aggregate information that it collects about the victims when assisting each victim to obtain HHS Certification.

OTIP developed the form to facilitate the submission of consistent information and improve program reporting. The trafficking victim or his or her representative may submit the completed form, which we recommend be done via password-protected email or encryption, to OTIP for the purpose of issuing a Certification Letter. OTIP will store this information in OTIP's secure database for no longer than 10 years, at

which time it will be destroyed, unless required for business use by HHS. Other details maintained in the victim's file may include OTIP staff actions, referrals, and notes regarding the victim's interest in receiving services. Maintaining victim records within OTIP's database will ensure efficient service delivery for victims, allow OTIP staff to track victims' progress toward certification, verify eligibility for benefits, and organize information for reporting aggregate data to Congress.

Respondents: Nongovernmental entities providing social or legal services, or victim/survivors of trafficking may use this form to submit a request for certification. The use of this form is optional; the victim or his/her representative has the option to make a request for certification via telephone or email.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
HHS Certification Instrument	800	1	.5	400

Estimated Total Annual Burden Hours: 400.

Additional Information

Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 330 C Street SW, Washington, DC 20201. Attention Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: *infocollection@acf.hhs.gov.*

OMB Comment

OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Email: *OIRA_SUBMISSION@OMB.EOP.GOV*, Attn: Desk Officer for the Administration for Children and Families.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2018–24347 Filed 11–6–18; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2008–D–0530]

Agency Information Collection Activities; Proposed Collection; Comment Request; Tropical Disease Priority Review Vouchers

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 Tropical Disease Priority Review Vouchers.

DATES: Submit either electronic or written comments on the collection of information by January 7, 2019.

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 January 7, 2019. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of January 7, 2019. 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–2008–D–0530 for the ''Tropical Disease Priority Review Vouchers.'' 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: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *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.

Tropical Disease Priority Review Vouchers

OMB Control Number 0910–0822—Revision

Section 524 of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 360n) is designed to encourage development of new drug or biological products for prevention and treatment of certain tropical diseases affecting millions of people throughout the world and makes provisions for awarding priority review vouchers for future applications to sponsors of tropical disease products. By enacting section 524 of the FD&C Act, Congress intended to stimulate new drug development for drugs to treat certain tropical diseases for which there are no or few available treatments by offering additional incentives for obtaining FDA approval for pharmaceutical treatments for these diseases. Under section 524 of the FD&C Act, a sponsor of a human drug application for a qualified tropical disease may be eligible for a voucher that can be used to obtain a priority review for any application submitted under section 505(b)(1) of the FD&C Act (21 U.S.C. 355(b)(1)) or section 351 of the Public Health Service Act (the PHS Act).

Accordingly, we have developed the guidance document entitled, ''Guidance for Industry (GFI): Tropical Disease Priority Review Vouchers.'' The guidance explains how FDA will implement the provisions of section 524 of the FD&C Act, how sponsors may use priority review vouchers, and how priority review vouchers may be transferred to other sponsors. The guidance also explains eligibility criteria for tropical disease drug product applications submitted under section 505(b)(1) of the FD&C Act and section 351 of the PHS Act, and provides instructions to sponsors on how they may:

- Request a priority review voucher; and
- notify FDA of their intent to use a priority review voucher, including the date on which the sponsor intends to submit the application.

The guidance also explains that transfer of a priority review voucher from one sponsor to another is permitted and that each transfer should be documented with a letter of transfer. Finally, the guidance will be revised to include new information collection established by section 611 of the FDA Reauthorization Act of 2017 (FDARA). As amended, section 524 of the FD&C Act requires the sponsor of a tropical disease product application to include an attestation regarding its eligibility for a priority review voucher.

Description of Respondents: Sponsors submitting applications under section 505(b)(1) of the FD&C Act or section 351 of the PHS Act.

We estimate the burden of the information collection as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Information collection activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Priority Review Voucher Request	5	1	5	8	40
Notifications of Intent to Use a Voucher	5	1	5	8	40
Letters Indicating the Transfer of a Voucher Letter	2	1	2	8	16
Acknowledging the Receipt of a Transferred Voucher	2	1	2	8	16
Attestation of Eligibility	5	1	5	2	10

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]—Continued

Information collection activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Total					122

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

We have increased our burden estimate since last approval to account for attestations added by FDARA; however, all other information collection elements remain unchanged.

Dated: November 1, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–24320 Filed 11–6–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–D–3710]

Meta-Analyses of Randomized Controlled Clinical Trials To Evaluate the Safety of Human Drugs or Biological Products; 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 ''Meta-Analyses of Randomized Controlled Clinical Trials to Evaluate the Safety of Human Drugs or Biological Products.'' This document, when finalized, will provide guidance to applicants submitting investigational new drug applications, new drug applications, biologics license applications, or supplemental applications on the use of meta-analyses of randomized controlled clinical trials (RCTs) to evaluate the safety of human drugs or biological products within the framework of regulatory decision-making.[1] This draft guidance is also intended for FDA reviewers and for third-party entities that prepare or evaluate meta-analyses assessing the safety of drug products. Specifically, this guidance describes the factors FDA intends to consider when evaluating the strength of evidence provided by a meta-analysis studying the safety of drugs.

DATES: Submit either electronic or written comments on the draft guidance by January 7, 2019 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–3710 for ''Meta-Analyses of Randomized Controlled Clinical Trials to Evaluate the Safety of Human Drugs or Biological Products: 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

[1] For the purposes of this guidance, all references to *drugs* include both human drugs and biologic products unless otherwise specified.

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 to 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. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Scott N. Goldie, Office of Biostatistics, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 21, Rm. 3557, Silver Spring, MD 20993–0002, 301–796–2055*; 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.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Meta-Analyses of Randomized Controlled Clinical Trials to Evaluate the Safety of Human Drugs or Biological Products.'' Evaluating the safety of drug products, both before approval and after marketing, is a fundamental responsibility of the FDA. This evaluation often requires combining and integrating information from multiple sources, and meta-analysis is a useful tool for this purpose.

This draft guidance describes general principles of design, conduct, and reporting that FDA intends to apply to meta-analyses conducted by the Agency, and to use as benchmarks when evaluating meta-analyses conducted by sponsors or third parties. The focus of the draft guidance is on the evaluation of safety. This draft guidance is not intended to be a reference guide on how to conduct a meta-analysis. Rather, this draft guidance document discusses the important principles underlying best practices for safety meta-analyses and the way that FDA intends to factor adherence to those principles into its decision-making process.

This draft guidance is being issued to fulfill a commitment made under the Prescription Drug User Fee V agreement (section IX.B.3 of the document entitled ''PDUFA Reauthorization Performance Goals and Procedures Fiscal Years 2013 through 2017'') to promote a better understanding and increased consistency among the Agency, industry and other stakeholders regarding meta-analyses and their role in regulatory decision-making.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ''Meta-Analyses of Randomized Controlled Clinical Trials to Evaluate the Safety of Human Drugs or Biological Products.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

II. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information that 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 21 CFR parts 312, 314, and 601 have been approved under OMB control numbers 0910–0014, 0910–0001, and 0910–0338 respectively.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at either *https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm, https://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm,* or *https://www.regulations.gov.*

Dated: November 1, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–24316 Filed 11–6–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–N–3758]

Agency Information Collection Activities; Proposed Collection; Comment Request; Individual Patient Expanded Access Applications: Form FDA 3926

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, 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 individual patient expanded access applications.

DATES: Submit either electronic or written comments on the collection of information by January 7, 2019.

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 January 7, 2019. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of January 7, 2019. 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–3758 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Guidance for Industry on Individual Patient Expanded Access Applications: Form FDA 3926.'' 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: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *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 Individual Patient Expanded Access Applications: Form FDA 3926

OMB Control Number 0910–0814—Extension

This information collection supports Agency regulations, associated guidance, and Form FDA 3926 concerning individual patient expanded access. Individual patient expanded access allows an individual patient who has a serious or immediately life-threatening disease or condition and there is no comparable or satisfactory alternative therapy to diagnose, monitor, or treat the disease or condition, the use of an investigational new drug (IND) outside of a clinical investigation, or the use of an approved drug where availability is limited by a risk evaluation and mitigation strategy. When applicable criteria in § 312.305(a) (21 CFR 312.305(a)) (which apply to all types of expanded access) and the criteria in § 312.310(a) (21 CFR 312.310(a)) (which apply specifically to individual patient expanded access, including for emergency use) are met, FDA may permit expanded access.

Section 312.305(b) sets forth the submission requirements for all types of expanded access requests. To assist respondents with requirements in § 312.305 we developed Form FDA 3926 (Individual Patient Expanded Access Investigational New Drug Application) and the guidance document entitled, ''Individual Patient Expanded Access Applications: Form FDA 3926.''

The physician may satisfy some of the submission requirements by referring to information in an existing IND, ordinarily the one held by the investigational drug's manufacturer, if the physician obtains permission from that IND holder. If permission is obtained, the physician should then provide to FDA a letter of authorization (LOA) from the existing IND holder that permits FDA to reference that IND.

One of the requirements under § 312.305(b)(2) is that a ''cover sheet'' must be included ''meeting the requirements of § 312.23(a).'' This provision applies to several types of submissions under part 312 (21 CFR part 312), ranging from commercial INDs under § 312.23 that involve large groups of patients enrolled in clinical trials to requests from physicians to use an investigational drug for an individual

patient. Sponsors currently use Form FDA 1571 for all types of IND submissions to meet the requirements in § 312.23(a).

Concerned that physicians requesting expanded access for an individual patient may encounter difficulty in completing Form FDA 1571 and the associated documents because the form is not tailored to requests for individual patient expanded access, we developed Form FDA 3926 to comply with the IND submission requirements in §§ 312.23, 312.305(b), and 312.310(b). Form FDA 3926 provides a streamlined means to request expanded access and is available for licensed physicians. FDA considers a completed Form FDA 3926 with the box in Field 10 checked and the form signed by the physician to be a request in accordance with § 312.10 for a waiver of any additional requirements in part 312 for an IND submission, including additional information currently provided in Form FDA 1571 and Form FDA 1572 (Statement of Investigator, which provides the identity and qualifications of the investigator conducting the clinical investigation).

Under § 312.310(d), in an emergency situation that requires the patient to be treated before a written submission can be made, the request to use the investigational drug for individual patient expanded access may be made by telephone (or other rapid means of communication) to the appropriate FDA review division. Authorization of the emergency use may be given by an FDA official over the telephone, provided the physician explains how the expanded access use will meet the requirements of §§ 312.305 and 312.310 and agrees to submit an expanded access application within 15 working days of FDA's initial authorization of the expanded access use (§ 312.310(d)). The physician may choose to use Form FDA 3926 for the expanded access application.

As explained in the instructions for Form FDA 3926 and discussed in the guidance document, the following information is submitted to FDA:

- Initials for the patient and date of submission.
- Type of submission (initial or follow-up submission).
- Clinical information, including indication, brief clinical history of the patient (age, gender, weight, allergies, diagnosis, prior therapy, response to prior therapy), and the reason for requesting the proposed treatment, including an explanation of why the patient lacks other therapeutic options.
- Treatment information, including the investigational drug's name and the name of the entity supplying the drug (generally the manufacturer), the applicable FDA review division (if known), and the treatment plan. This should include the planned dose, route and schedule of administration, planned duration of treatment, monitoring procedures, and planned modifications to the treatment plan in the event of toxicity.
- LOA, generally obtained from the entity that is the sponsor of the IND (*e.g.,* commercial sponsor/drug manufacturer) being referenced, if applicable.
- Physician's qualification statement. An appropriate statement includes medical school attended, year of graduation, medical specialty, State medical license number, current employment, and job title. Alternatively, the relevant portion of the physician's curriculum vitae may be attached.
- Physician's contact information, including name, physical address, email address, telephone number, facsimile number, and physician's IND number, if previously issued by FDA.
- Contents of submission (for follow-up/additional submissions), including the type of submission being made. FDA accepts Form FDA 3926 for certain follow-up/additional submissions, which include the following: Initial Written IND Safety Report (§ 312.32(c)); Followup to a Written IND Safety Report (§ 312.32(d)); Annual Report (§ 312.33); Summary of Expanded Access Use (treatment completed) (§ 312.310(c)(2)); Change in Treatment Plan (§ 312.30); General Correspondence or Response to FDA Request for Information (§ 312.41); and Response to Clinical Hold (§ 312.42(e)).
- Request for authorization to use Form FDA 3926 for individual patient expanded access application.
- Signature of the physician certifying that treatment will not begin until 30 days after FDA receives the completed application and all required material unless the submitting physician receives earlier notification from FDA that the treatment may proceed. The physician agrees not to begin or continue clinical investigations covered by the IND if those studies are placed on clinical hold. The physician also certifies that informed consent will be obtained in compliance with Federal requirements (including FDA's regulations in 21 CFR part 50) and that an institutional review board (IRB) that complies with all Federal requirements (including FDA's regulations in 21 CFR part 56) will be responsible for initial and continuing review and approval of the expanded access use. The physician also acknowledges that in the case of an emergency request, treatment may begin without prior IRB approval, provided the IRB is notified of the emergency treatment within 5 working days of treatment. The physician agrees to conduct the investigation in accordance with all other applicable regulatory requirements.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Guidance on Individual Patient Expanded Access Applications: Form FDA 3926	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Expanded access submission elements included in Form FDA 3926.	790	3.03	2,394	0.75 (45 mins.)	1,795

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Based on a review of the information collection, we are retaining the currently approved burden estimate. The estimates for ''number of respondents,'' ''number of responses per respondent,'' and ''total annual responses'' were obtained from reports and data management systems from the Center for Drug Evaluation and Research (CDER) and from other sources familiar with the number of submissions received for individual patient expanded access use under part 312. The estimates for ''average burden per response'' were based on information CDER provided and personnel of the U.S. Department of Health and Human Services familiar with preparing and reviewing expanded access submissions by practicing physicians.

Based on data from the Document Archiving, Reporting and Regulatory Tracking System for the number of submissions to FDA using FDA Form 3926 during fiscal years 2015, 2016, and 2017, we estimate that approximately 790 licensed physicians would use FDA Form 3926 to submit 1.46 requests per physician (respondent) for individual patient expanded access, for a total of 1,153 responses annually. Based on these estimates, FDA calculates the total annual responses to be 2,394 (1,153 requests for individual patient expanded access and 1,241 follow-up submissions) by 790 physicians for an average of 3.03 responses per respondent. FDA estimates the average burden per response to be 45 minutes (0.75 hour). Based on this estimate, FDA calculates the total burden to be 1,795 hours.

Dated: October 31, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–24321 Filed 11–6–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–N–4130]

Agency Information Collection Activities; Proposed Collection; Comment Request; Recordkeeping Requirements for Microbiological Testing and Corrective Measures for Bottled Water

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 procedure by which both domestic and foreign bottled water manufacturers that sell bottled water in the United States maintain records of microbiological testing and corrective measures, in addition to existing recordkeeping requirements.

DATES: Submit either electronic or written comments on the collection of information by January 7, 2019.

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 January 7, 2019. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of January 7, 2019. 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–4130 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Recordkeeping Requirements for Microbiological Testing and Corrective Measures for Bottled Water.'' 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: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *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.

Recordkeeping Requirements for Microbiological Testing and Corrective Measures for Bottled Water—21 CFR 129.35(a)(3)(i), 129.80(g), and 129.80(h)

OMB Control Number 0910–0658—Extension

The bottled water regulations in parts 129 and 165 (21 CFR parts 129 and 165) require that if any coliform organisms are detected in weekly total coliform testing of finished bottled water, followup testing must be conducted to determine whether any of the coliform organisms are *Escherichia coli* (*E. coli*). The adulteration provision of the bottled water standard (§ 165.110(d)) provides that a finished product that tests positive for *E. coli* will be deemed adulterated under section 402(a)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342(a)(3)). In addition, the current good manufacturing practice (CGMP) regulations for bottled water in part 129 require that source water from other than a public water system (PWS) be tested at least weekly for total coliform. If any coliform organisms are detected in the source water, the bottled water manufacturers are required to determine whether any of the coliform organisms are *E. coli.* Source water found to contain *E. coli* is not considered water of a safe, sanitary quality and would be unsuitable for bottled water production. Before a bottler may use source water from a source that has tested positive for *E. coli,* a bottler must take appropriate measures to rectify or otherwise eliminate the cause of the contamination. A source previously found to contain *E. coli* will be considered negative for *E. coli* after five samples collected over a 24-hour period from the same sampling site are tested and found to be *E. coli* negative.

Description of Respondents: The respondents to this information collection are domestic and foreign bottled water manufacturers that sell bottled water in the United States.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

21 CFR section; activity	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
§§ 129.35(a)(3)(i) and 129.80(h) (bottlers subject to both source water and finished product testing)	319	6	1,914	0.08 (5 minutes)	153
§ 129.80(g) and (h) (bottlers only subject to finished product testing).	95	3	285	0.08 (5 minutes)	23
§§ 129.35(a)(3)(i) and 129.80(h) (bottlers conducting secondary testing of source water).	3	5	15	0.08 (5 minutes)	1
§§ 129.35(a)(3)(i) and 129.80(h) (bottlers rectifying contamination).	3	3	9	0.25 (15 minutes)	2
Total					179

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Based on a review of the information collection since our last request for OMB approval, we have made no adjustments to our burden estimate.

The current CGMP regulations already reflect the time and associated recordkeeping costs for those bottlers that are required to conduct microbiological testing of their source water, as well as total coliform testing of their finished bottled water products. We therefore conclude that any additional burden and costs in recordkeeping based on followup testing that is required if any coliform organisms detected in the source water test positive for *E. coli* are negligible.

We estimate that the labor burden of keeping records of each *E. coli* followup test is about 5 minutes per test. We also require followup testing of source water and finished bottled water products for *E. coli* when total coliform positives occur. We expect that 319 bottlers that use sources other than PWSs may find a total coliform positive sample about three times per year in source water testing and about three times in finished product testing and thus would need to conduct six tests for *E. coli,* for a total of 153 hours of recordkeeping. In addition, about 95 bottlers that use PWSs may find a total coliform positive sample about three times per year in finished product testing and thus would need to conduct three tests for *E. coli,* for a total of 23 hours of recordkeeping.

We expect that three bottlers per year will test positive for *E. coli* in source water and will need to take actions to rectify or eliminate the cause of the contamination and verify that *E. coli* is negative by taking five samples over a 24-hour period from the same sampling site that originally tested positive for *E.*

coli. We expect that recordkeeping for the followup test for *E. coli* will also take about 5 minutes per test. As shown in table 1 of this document, we expect that three bottlers per year will test positive for *E. coli* in source water and will have to carry out the additional *E. coli* testing, with a burden of 1 hour. These bottlers will also have to keep records about rectifying the source contamination, for a burden of 2 hours. For all expected total coliform testing, *E. coli* testing, and source rectification, we estimate a total burden of 179 hours.

We base our estimate on our experience with the current CGMP regulations.

Dated: November 1, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–24322 Filed 11–6–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–D–3860]

Hypertension: Developing Fixed-Combination Drug Products for Treatment; 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 final guidance for industry entitled ''Hypertension: Developing Fixed-Combination Drug Products for Treatment.'' The purpose of this guidance is to assist sponsors in the clinical development of fixed-combination drug products for the treatment of hypertension. The guidance focuses on development of two-drug combinations of previously approved drug products. This guidance incorporates the comments received for and finalizes the draft guidance for industry entitled ''Hypertension: Developing Fixed-Dose Combination Drugs for Treatment'' issued on January 26, 2018.

DATES: The announcement of the guidance is published in the **Federal Register** on November 7, 2018.

ADDRESSES: You may submit either electronic or written comments on Agency guidances at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2018–D–3860 for ''Hypertension: Developing Fixed-Combination Drug Products for Treatment.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

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

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of this guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Naomi Lowy, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave. Bldg. 22, Rm. 4204, Silver Spring, MD 20993–0002, 301–796–0692.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry entitled ''Hypertension: Developing Fixed-Combination Drug Products for Treatment.'' The purpose of this

guidance is to assist sponsors in the clinical development of fixed combination drug products for the treatment of hypertension. The guidance focuses on development of two-drug combinations of previously approved drug products. This guidance incorporates the comments received for and finalizes the draft guidance for industry entitled ''Hypertension: Developing Fixed-Dose Combination Drugs for Treatment'' issued on January 26, 2018 (83 FR 3735). All the public comments received on the draft guidance have been considered, and the guidance was revised as appropriate primarily for editorial changes.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on ''Hypertension: Developing Fixed-Combination Drug Products for Treatment.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

II. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information that 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 21 CFR part 312 has been approved under OMB control number 0910–0014. The collection of information in the guidance for industry entitled ''Hypertension Indication: Drug Labeling for Cardiovascular Outcome Claims'' (available at *https://www.fda.gov/ucm/groups/fdagov-public/@fdagov-drugs-gen/documents/document/ucm075072.pdf*) has been approved under OMB control number 0910–0670.

III. Electronic Access

Persons with access to the internet may obtain the guidance at either *https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *https://www.regulations.gov.*

Dated: November 1, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–24315 Filed 11–6–18; 8:45 am]

BILLING CODE 4164–01–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, November 19, 2018, 8:30 a.m. to November 19, 2018, 4:00 p.m., National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2W200, Bethesda, MD 20892 which was published in the **Federal Register** on October 30, 2018, 83 FR 54605.

The meeting notice is amended to change the meeting location from the National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2W200, Bethesda, MD 20892 to Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814. The meeting is closed to the public.

Dated: November 1, 2018.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–24293 Filed 11–6–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-day Comment Request: Data and Specimen Hub (DASH) (Eunice Kennedy Shriver National Institute of Child Health and Human Development)

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

DATES: Comments regarding this information collection are best assured of having their full effect if received within 30-days of the date of this publication.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974, Attention: Desk Officer for NIH.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Rohan Hazra, M.D., Eunice Kennedy Shriver National Institute of Child Health and Human Development (NICHD), National Institutes of Health, 6710B Rockledge Drive, Room 2113, Bethesda, MD 20817, or call non-toll-free number (301)–435–6868 or Email your request, including your address to: *rohan.hazra@nih.gov.*

SUPPLEMENTARY INFORMATION: This proposed information collection was previously published in the **Federal Register** on April 27, 2018, page 18576 (Vol 83) and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment.

The *Eunice Kennedy Shriver* National Institute of Child Health and Human Development (NICHD), National Institutes of Health, may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

Proposed Collection: Data and Specimen Hub (DASH) 0925–0774 exp. date 6/30/19—REVISION; *Eunice Kennedy Shriver* National Institute of Child Health and Human Development (NICHD), National Institutes of Health (NIH).

Need and Use of Information Collection:

This is a request to revise the previously approved submission to add the collection of additional information from Users who will request biospecimens, submit the Institutional Certification for data/biospecimen inventory, and submit DASH data/biospecimen Annual Progress Report for the NICHD Data and Specimen Hub (DASH). DASH has been established by NICHD as a data sharing mechanism for biomedical research investigators. It serves as a centralized resource for investigators to store and access deidentified study data and biospecimen inventories—a list of biospecimens available at the NICHD

Biorepository—from studies funded by NICHD. The potential for public benefit to be achieved through sharing study data and/or biospecimen inventories for secondary analysis is significant. NICHD DASH supports NICHD's mission to ensure that every person is born healthy and wanted, that women suffer no harmful effects from reproductive processes, and that all children have the chance to achieve their full potential for healthy and productive lives, free from disease or disability, and to ensure the health, productivity, independence, and well-being of all people through optimal rehabilitation. Study data and biospecimen sharing and reuse will promote testing of new hypotheses from data already collected, facilitate transdisciplinary collaboration, accelerate scientific findings and enable NICHD to maximize the return on its investments in research.

Anyone can access NICHD DASH to browse and view descriptive information about the studies and study data archived in NICHD DASH without creating an account. Users who wish to submit or request research data and/or biospecimen inventories must register for an account.

Information will be collected from those wishing to create an account, sufficient to identify them as unique Users. Those submitting or requesting data and/or biospecimen inventories will be required to provide additional supporting information to ensure proper use and security of NICHD DASH study data and biospecimen inventories. The information collected is limited to the essential data required to ensure the management of Users in NICHD DASH is efficient and the sharing of data and biospecimens among investigators is effective. The primary uses of the information collected from Users by NICHD will be to:

- Communicate with the Users with regards to their data submission, data requests and biospecimen requests
- Monitor data submissions, data requests and biospecimen requests
- Notify interested recipients of updates to data and biospecimen inventories stored in NICHD DASH
- Help NICHD understand the use of NICHD DASH study data and biospecimen inventories by the research community

All the data collected from use of NICHD DASH except for information provided in the annual progress reports are for the purposes of internal administrative management of NICHD DASH. Information gathered through the annual progress reports may be used in publications describing performance of the DASH system.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 204.

ESTIMATED ANNUALIZED BURDEN HOURS

Form	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual burden hour
User Registration	200	1	5/60	17
Data Submission and Biospecimen Inventory Submissions	36	1	2	72
Data Request	60	1	1	60
Biospecimen Request	36	1	1	36
Data Use Annual Progress Report	60	1	10/60	10
Biospecimen Use Annual Progress Report	36	1	10/60	6
Institutional Certification Template	36	1	5/60	3
Total	200	200		204

Dated: November 1, 2018.

Jennifer M. Guimond,

Project Clearance Liaison, Eunice Kennedy Shriver National Institute of Child Health and Human Development, National Institutes of Health.

[FR Doc. 2018–24313 Filed 11–6–18; 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 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 Heart, Lung, and Blood Institute Special Emphasis Panel; Primate Center for Gene Therapy.

Date: November 30, 2018.

Time: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6701 Rockledge Drive, Room 7180, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Tony L Creazzo, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, Room 7180, Bethesda, MD 20892–7924, 301–827–7913.

(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: November 1, 2018.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–24294 Filed 11–6–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer at (240) 276–1243.

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

Proposed Project: Treatment Episode Data Set (TEDS) (OMB No. 0930–0335)—Extension

The Substance Abuse and Mental Health Services Administration (SAMHSA) is requesting an extension to collect the Treatment Episode Data Set (TEDS) data collection (OMB No. 0930–0335), which expires on March 31, 2019. TEDS is a compilation of client-level substance use treatment admission and discharge data submitted by states on clients treated in facilities that receive state funds. SAMHSA is also requesting an extension to collect the client-level mental health admission and update/discharge data (MH–TEDS/MH–CLD) submitted by states on clients treated in facilities that receive state funds (also OMB No. 0930–0335).

TEDS/MH–TEDS/MH–CLD data are collected to obtain information on the number of admissions and updates/discharges at publicly funded substance use treatment and mental health services facilities and on the characteristics of clients receiving services at those facilities.

TEDS/MH–TEDS/MH–CLD also monitor trends in the demographic, substance use, and mental health characteristics of admissions. In addition, several of the data elements used to calculate performance measures for the Substance Abuse Block Grant (SABG) and Mental Health Block Grant (MHBG) applications are collected through the TEDS/MH–TEDS/MH–CLD.

Most states collect the TEDS/MH–TEDS/MH–CLD data elements from their treatment providers for their own administrative purposes and are able to submit a cross-walked extract of their data to TEDS/MH–TEDS/MH–CLD. No changes are expected in the TEDS/MH–TEDS/MH–CLD data elements that are collected.

Estimated annual burden for the separate TEDS/MH–TEDS/MH–CLD activities is as follows:

Type of activity	Number of respondents (states/jurisdictions)	Responses per respondent	Total responses	Hours per response	Total burden hours
TEDS Admission Data	52	4	208	6.25	1,300
TEDS Discharge Data	52	4	208	8.25	1,716
TEDS Crosswalks	5	1	5	10	50
MH–CLD BCI Data	30	1	30	30	900
MH–CLD SHR Data	30	1	30	5	150
MH–TEDS Admissions Data	29	4	116	6.25	725
MH–TEDS Update/Discharge Data	29	4	116	8.25	957
MH–TEDS Crosswalks	10	1	10	10	100
Total	59		723		5,898

Send comments to Summer King, SAMHSA Reports Clearance Officer, 5600 Fishers Lane, Room 15E57B, Rockville, MD 20857 *OR* email a copy at *summer.king@samhsa.hhs.gov.* Written comments should be received by January 7, 2019.

Summer King,

Statistician.

[FR Doc. 2018–24284 Filed 11–6–18; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer at 240–276–1243.

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

Proposed Project: Data Resource Toolkit Protocol for the Crisis Counseling Assistance and Training Program (OMB No. 0930–0270)—Reinstatement

The SAMHSA Center for Mental Health Services (CMHS) as part of an interagency agreement with the Federal Emergency Management Agency (FEMA) provides a toolkit to be used for the purposes of collecting data on the Crisis Counseling Assistance and Training Program (CCP). The CCP provides supplemental funding to states and territories for individual and community crisis intervention services after a presidentially declared disaster.

The CCP has provided disaster mental health services to millions of disaster survivors since its inception, and, with more than 30 years of accumulated expertise, it has become an important model for federal response to a variety of catastrophic events. Recent CCP grants include programs in Puerto Rico, the U.S. Virgin Islands, Florida, Texas, Tennessee, California, Missouri, Louisiana, and West Virginia. These grants have helped survivors after disasters including Hurricanes Harvey, Maria, and Irma in 2017; wildfires, severe storms, flooding, and tornadoes in 2016 and 2017; and landslides and mudslides in 2016. CCPs address the short-term mental health needs of communities primarily through (a) outreach and public education, (b) individual and group counseling, and (c) referral. Outreach and public education serve primarily to normalize reactions and to engage people who may need further care. Crisis counseling assists survivors in coping with current stress and symptoms to return to pre-disaster functioning. Crisis counseling relies largely on ''active listening,'' and crisis counselors also provide psycho-education (especially about the nature of responses to trauma) and help clients build coping skills. Crisis counselors typically work with a single client once or a few times. Because crisis counseling is time-limited, referral is the third important function of CCPs. Counselors are expected to refer a survivor to formal treatment if he or she has developed a mental and/or substance use disorder or is having difficulty in coping with his or her disaster reactions.

Data about services delivered and users of services will be collected throughout the program period. The data will be collected via the use of a toolkit that relies on standardized forms. At the program level, the data will be entered quickly and easily into a cumulative database mainly through mobile data entry or paper forms (depending on resource availability) to yield summary tables for quarterly and final reports for the program. Mobile data entry allows for the data to be uploaded and linked to a national database that houses data collected across CCPs. This database provides SAMHSA/CMHS and FEMA with a way of producing summary reports of services provided across all programs funded.

The components of the toolkit are listed and described below:

- *Encounter logs.* These forms document all services provided. The CCP requires crisis counselors to complete these logs. There are three types of encounter logs: (1) Individual/Family Crisis Counseling Services Encounter Log, (2) Group Encounter Log, and (3) Weekly Tally Sheet.
  - *Individual/Family Crisis Counseling Services Encounter Log.* Crisis counseling is defined as an interaction that lasts at least 15 minutes and involves participant disclosure. This form is completed by the crisis counselor for each service recipient, defined as the person or people who actively participated in the session (that is, by participating in conversation), not someone who is merely present. The same form may be completed with other family or household members who are actively engaged in the visit. Information collected includes demographics, service characteristics, risk factors, event reactions, and referral data.
  - *Group Encounter Log.* This form is used to collect data on either a group crisis counseling encounter or a group public education encounter. The crisis counselor indicates in a checkbox at the top the class of activities (that is, counseling or education). Information collected includes service characteristics, group identity and characteristics, and group activities.
  - *Weekly Tally Sheet.* This form documents brief educational and supportive encounters not captured on any other form. Information collected includes service characteristics, daily tallies, and weekly totals for brief educational or supportive contacts and for material distribution with no or minimal interaction.
- *Assessment and Referral Tools.* These tools—one for adults and one for children and youth—provide descriptive information about intensive users of services, defined as all individuals receiving a third individual crisis counseling visit or those who are continuing to experience severe distress that may be affecting their ability to perform daily activities. This tool will typically be used beginning 3 months after the disaster and will be completed by the crisis counselor.
- *Participant Feedback Survey.* These surveys are completed by and collected from a sample of service recipients, not every recipient. Sampling is done on a biannual basis at 6 months and 1 year after the disaster. Information collected includes satisfaction with services, perceived improvements in coping and functioning, types of exposure, and event reactions.
- *Service Provider Feedback Form.* These surveys are completed by and collected from the CCP service providers anonymously at 6-months and 1-year after the disaster. The survey will be coded on several program-level as well as worker-level variables. However, the program itself will be identified and shared with program management only if the number of individual workers who completed the survey was greater than 10.

There are no changes to the Individual Encounter Log, Group Encounter Log, Weekly Tally, and the Assessment and Referral Tools since the last approval. Revisions include the addition of a gross annual household income question to the Participant Feedback Survey form. For the Service Provider Feedback Form, questions about different types of CCP training and their usefulness were updated to improve capturing training feedback. CMHS also added a new section to mobile technology and data entry, and the questions in this section were updated from the previous form where they were listed under a different section. Finally, CMHS has added questions related to the counselors' income and personal experience(s) with the disaster, as they are typically members of the affected community prior to employment by the CCP, and program leadership is responsible for monitoring the counselors' stress levels.

In Table 1 are the estimates of the annualized burden hours.

TABLE 1—ANNUALIZED HOUR BURDEN ESTIMATES

Form	Number of respondents	Responses per respondent	Hours per response	Total hour burden
Individual/Family Crisis Counseling Services Encounter Log	600	196	0.08	9,408
Group Encounter Log	100	33	0.05	165
Weekly Tally Sheet	600	52	0.15	4,680
Assessment and Referral Tools	600	14	0.17	1,428
Participant Feedback Form	1,000	1	0.25	250
Service Provider Feedback Form	100	1	0.41	41
Total	3,000			15,972

Send comments to Summer King, SAMHSA Reports Clearance Officer, 5600 Fishers Lane, Room 15E57–B, Rockville, MD 20857 *OR* email her a copy at *summer.king@samhsa.hhs.gov.* Written comments should be received by January 7, 2019.

Summer King,

Statistician.

[FR Doc. 2018–24283 Filed 11–6–18; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Customs Broker User Fee Payment for 2019

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: General notice.

SUMMARY: This document provides notice to customs brokers that the annual user fee that is assessed for each permit held by a broker, whether it may be an individual, partnership, association, or corporation, is due by January 25, 2019. Pursuant to fee adjustments required by the Fixing America's Surface Transportation Act (FAST Act) and CBP regulations, the annual user fee payable in calendar year 2019 will be $144.74.

DATES: Payment of the 2019 Customs Broker User Fee is due by January 25, 2019.

FOR FURTHER INFORMATION CONTACT: Julia Peterson, Broker Management Branch, Office of Trade, (202) 325–6601.

SUPPLEMENTARY INFORMATION:

Pursuant to section 111.96 of title 19 of the Code of Federal Regulations (19 CFR 111.96(c)), U.S. Customs and Border Protection (CBP) assesses an annual user fee for each customs broker district and national permit held by an individual, partnership, association, or corporation. CBP regulations provide that this fee is payable for each calendar year in each broker district where the broker was issued a permit to do business by the due date. *See* 19 CFR 24.22(h) and (i)(9). Broker districts are defined in the General Notice entitled, ''Geographic Boundaries of Customs Brokerage, Cartage and Lighterage Districts,'' published in the **Federal Register** on March 15, 2000 (65 FR 14011), and corrected, with minor changes, on March 23, 2000 (65 FR 15686) and on April 6, 2000 (65 FR 18151).

Sections 24.22 and 24.23 of title 19 of the Code of Federal Regulations (19 CFR 24.22 and 24.23) provide for and describe the procedures that implement the requirements of the Fixing America's Surface Transportation Act (FAST Act) (Pub. L. 114–94, December 4, 2015). Specifically, paragraph (k) in section 24.22 (19 CFR 24.22(k)) sets forth the methodology to determine the change in inflation as well as the factor by which the fees and limitations will be adjusted, if necessary. The customs broker user fee is set forth in Appendix A of part 24. (19 CFR 24.22 Appendix A). On August 1, 2018, CBP published a **Federal Register** notice, CBP Dec. 18–08, which among other things, announced that the annual broker permit user fee would increase to $144.74 for calendar year 2019. *See* 83 FR 37509.

As required by 19 CFR 111.96, CBP must provide notice in the **Federal Register** no later than 60 days before the date that the payment is due for each broker permit. This document notifies customs brokers that for calendar year 2019, the due date for payment of the user fee is January 25, 2019.

Dated: November 1, 2018.

Brenda B. Smith,

Executive Assistant Commissioner, Office of Trade.

[FR Doc. 2018–24342 Filed 11–6–18; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6133–N–01]

Notice of HUD Vacant Loan Sales (HVLS 2019–1)

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of sales of reverse mortgage loans.

SUMMARY: This notice announces HUD's intention to competitively offer multiple residential reverse mortgage pools consisting of approximately 1,150 reverse mortgage notes secured by properties with a loan balance of approximately $230 million. The sale will consist of due and payable Secretary-held reverse mortgage loans. The mortgage loans consist of first liens secured by single family, vacant residential properties, where all borrowers are deceased, and no borrower is survived by a non-borrowing spouse.

This notice also generally describes the bidding process for the sale and certain persons who are ineligible to bid. This is the third sale offering of its type and the sale will be held on December 12, 2018.

DATES: For this sale action, the Bidder's Information Package (BIP) is expected to be made available to qualified bidders on or about November 14, 2018. Bids for the HVLS 2019–1 sale will be accepted on the Bid Date of December 12, 2018 (Bid Date). HUD anticipates that award(s) will be made on or about December 13, 2018 (the Award Date).

ADDRESSES: To become a qualified bidder and receive the BIP, prospective bidders must complete, execute, and submit a Confidentiality Agreement and a Qualification Statement acceptable to HUD. Both documents are available via the HUD website at: *http://www.hud.gov/sfloansales* or via: *http://www.verdiassetsales.com.*

Please mail and fax executed documents to Verdi Consulting, Inc.: Verdi Consulting, Inc., 8400 Westpark Drive, 4th Floor, McLean, VA 22102, Attention: HUD SFLS Loan Sale Coordinator, Fax: 1–703–584–7790

FOR FURTHER INFORMATION CONTACT: John Lucey, Director, Asset Sales Office, Room 3136, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–8000; telephone 202–708–2625, extension 3927. Hearing- or speech-impaired individuals may call 202–708–4594 (TTY). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: HUD announces its intention to sell in HVLS 2019–1 due and payable Secretary-held reverse mortgage loans. The loans consist of first liens secured by single family, vacant residential properties, where all borrowers are deceased, and no borrower is survived by a non-borrowing spouse.

A listing of the mortgage loans is included in the due diligence materials made available to qualified bidders. The mortgage loans will be sold without FHA insurance and with servicing released. HUD will offer qualified bidders an opportunity to bid competitively on the mortgage loans. The loans are expected to be offered in regional pools, with one or more geographically concentrated pools designated for bidding by qualified non-profit or unit of local government entities only. Qualified non-profit or unit of local government bidders will also have the opportunity to bid on up to 10% of the loans in a larger regional pool.

The Bidding Process

The BIP describes in detail the procedure for bidding in HVLS 2019–1. The BIP also includes a standardized non-negotiable Conveyance, Assignment and Assumption Agreement for HVLS 2019–1 (CAA). Qualified bidders will be required to submit a deposit with their bid. Deposits are calculated based upon each qualified bidder's aggregate bid price.

HUD will evaluate the bids submitted and determine the successful bid, in terms of the best value to HUD, in its sole and absolute discretion. If a qualified bidder is successful, the qualified bidder's deposit will be non-refundable and will be applied toward the purchase price. Deposits will be returned to unsuccessful bidders.

This notice provides some of the basic terms of sale. The CAA, which is included in the BIP, provides comprehensive contractual terms and conditions. To ensure a competitive bidding process, the terms of the bidding process and the CAA are not subject to negotiation.

Due Diligence Review

The BIP describes how qualified bidders may access the due diligence materials remotely via a high-speed internet connection.

Mortgage Loan Sale Policy

HUD reserves the right to remove mortgage loans from HVLS 2019–1 at any time prior to the Award Date. HUD also reserves the right to reject any and all bids, in whole or in part, and include any reverse mortgage loans in a later sale. Deliveries of mortgage loans will occur in conjunction with settlement and servicing transfer, approximately 30 to 45 days after the Award Date.

The HVLS 2019–1 reverse mortgage loans were insured by and were assigned to HUD pursuant to section 255 of the National Housing Act, as amended. The sale of the reverse mortgage loans is pursuant to section 204(g) of the National Housing Act.

Mortgage Loan Sale Procedure

HUD selected an open competitive whole-loan sale as the method to sell the mortgage loans for this specific sale transaction. For HVLS 2019–1, HUD has determined that this method of sale optimizes HUD's return on the sale of these loans, affords the greatest opportunity for all qualified bidders to bid on the mortgage loans, and provides the quickest and most efficient vehicle for HUD to dispose of the mortgage loans.

Bidder Ineligibility

In order to bid in HVLS 2019–1 as a qualified bidder, a prospective bidder must complete, execute and submit both a Confidentiality Agreement and a Qualification Statement acceptable to HUD. In the Qualification Statement, the prospective bidder must provide certain representations and warranties regarding the prospective bidder, including but not limited to (i) the prospective bidder's board of directors, (ii) the prospective bidder's direct parent, (iii) the prospective bidder's subsidiaries, (iv) any related entity with which the prospective bidder shares a common officer, director, subcontractor or sub-contractor who has access to Confidential Information as defined in the Confidentiality Agreement or is involved in the formation of a bid transaction (collectively the ''Related Entities''), and (v) the prospective bidder's repurchase lenders. The prospective bidder is ineligible to bid on any of the reverse mortgage loans included in HVLS 2019–1 if the prospective bidder, its Related Entities or its repurchase lenders, is any of the following, unless other exceptions apply as provided for the in the Qualification Statement.

1. An individual or entity that is currently debarred, suspended, or excluded from doing business with HUD pursuant to the Governmentwide Suspension and Debarment regulations at 2 CFR parts 180 and 2424;

2. An individual or entity that is currently suspended, debarred or otherwise restricted by any department or agency of the federal government or of a state government from doing business with such department or agency;

3. An individual or entity that is currently debarred, suspended, or excluded from doing mortgage related business, including having a business license suspended, surrendered or revoked, by any federal, state or local government agency, division or department;

4. An entity that has had its right to act as a Government National Mortgage Association (''Ginnie Mae'') issuer terminated and its interest in mortgages backing Ginnie Mae mortgage-backed securities extinguished by Ginnie Mae;

5. An individual or entity that is in violation of its neighborhood stabilizing outcome obligations or post-sale reporting requirements under a Conveyance, Assignment and Assumption Agreement executed for any previous mortgage loan sale of HUD;

6. An employee of HUD's Office of Housing, a member of such employee's household, or an entity owned or controlled by any such employee or member of such an employee's household with household to be inclusive of the employee's father, mother, stepfather, stepmother, brother, sister, stepbrother, stepsister, son, daughter, stepson, stepdaughter, grandparent, grandson, granddaughter, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, first cousin, the spouse of any of the foregoing, and the employee's spouse;

7. A contractor, subcontractor and/or consultant or advisor (including any agent, employee, partner, director, or principal of any of the foregoing) who performed services for or on behalf of HUD in connection with the sale;

8. An individual or entity that knowingly acquired or will acquire prior to the sale date material non-public information, other than that information which is made available to Bidder by HUD pursuant to the terms of

this Qualification Statement, about mortgage loans offered in the sale;

9. An individual or entity that knowingly uses the services, directly or indirectly, of any person or entity ineligible under 1 through 10 to assist in preparing any of its bids on the mortgage loans;

10. An individual or entity which knowingly employs or uses the services of an employee of HUD's Office of Housing (other than in such employee's official capacity); or

The Qualification Statement has additional representations and warranties which the prospective bidder must make, including but not limited to the representation and warranty that the prospective bidder or its Related Entities are not and will not knowingly use the services, directly or indirectly, of any person or entity that is, any of the following (and to the extent that any such individual or entity would prevent the prospective bidder from making the following representations, such individual or entity has been removed from participation in all activities related to this sale and has no ability to influence or control individuals involved in formation of a bid for this sale):

(1) An entity or individual is ineligible to bid on any included reverse mortgage loan or on the pool containing such reverse mortgage loan because it is an entity or individual that:

(a) serviced or held such reverse mortgage loan at any time during the six-month period prior to the bid, or

(b) is any principal of any entity or individual described in the preceding sentence;

(c) any employee or subcontractor of such entity or individual during that six-month period; or

(d) any entity or individual that employs or uses the services of any other entity or individual described in this paragraph in preparing its bid on such reverse mortgage loan.

Freedom of Information Act Requests

HUD reserves the right, in its sole and absolute discretion, to disclose information regarding HVLS 2019–1, including, but not limited to, the identity of any successful qualified bidder and its bid price or bid percentage for any pool of loans or individual loan, upon the closing of the sale of all the Mortgage Loans. Even if HUD elects not to publicly disclose any information relating to HVLS 2019–1, HUD will disclose any information that HUD is obligated to disclose pursuant to the Freedom of Information Act and all regulations promulgated thereunder.

Scope of Notice

This notice applies to HVLS 2019–1 and does not establish HUD's policy for the sale of other mortgage loans.

Dated: November 1, 2018.

Vance T. Morris,

Special Assistant to the Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 2018–24395 Filed 11–6–18; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–HQ–IA–2018–0084; FXIA16710900000–178–FF09A30000]

Foreign Endangered Species; Receipt of Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on applications to conduct certain activities with foreign species that are listed as endangered under the Endangered Species Act (ESA). With some exceptions, the ESA prohibits activities with listed species unless Federal authorization is issued that allows such activities. The ESA also requires that we invite public comment before issuing permits for activities involving endangered species.

DATES: We must receive comments by December 7, 2018.

ADDRESSES: *Obtaining Documents:* The applications, application supporting materials, and any comments and other materials that we receive will be available for public inspection at *http://www.regulations.gov* in Docket No. FWS–HQ–IA–2018–0084.

Submitting Comments: When submitting comments, please specify the name of the applicant and the permit number at the beginning of your comment. You may submit comments by one of the following methods:

- *Internet: http://www.regulations.gov.* Search for and submit comments on Docket No. FWS–HQ–IA–2018–0084.
- *U.S. Mail or Hand-Delivery:* Public Comments Processing, Attn: Docket No. FWS–HQ–IA–2018–0084; U.S. Fish and Wildlife Service Headquarters, MS: BPHC; 5275 Leesburg Pike; Falls Church, VA 22041–3803.

For more information, see Public Comment Procedures under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Brenda Tapia, by phone at 703–358–2104, via email at *DMAFR@fws.gov,* or via the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

A. How do I comment on submitted applications?

You may submit your comments and materials by one of the methods in **ADDRESSES**. We will not consider comments sent by email or fax, or to an address not in **ADDRESSES**. We will not consider or include in our administrative record comments we receive after the close of the comment period (see **DATES**).

When submitting comments, please specify the name of the applicant and the permit number at the beginning of your comment. Provide sufficient information to allow us to authenticate any scientific or commercial data you include. The comments and recommendations that will be most useful and likely to influence agency decisions are: (1) Those supported by quantitative information or studies; and (2) those that include citations to, and analyses of, the applicable laws and regulations.

B. May I review comments submitted by others?

You may view and comment on others' public comments on *http://www.regulations.gov,* unless our allowing so would violate the Privacy Act (5 U.S.C. 552a) or Freedom of Information Act (5 U.S.C. 552).

C. Who will see my comments?

If you submit a comment at *http://www.regulations.gov,* your entire comment, including any personal identifying information, will be posted on the website. If you submit a hardcopy comment that includes personal identifying information, such as your address, phone number, or email address, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. Moreover, all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

II. Background

To help us carry out our conservation responsibilities for affected species, and

in consideration of section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), we invite public comments on permit applications before final action is taken. With some exceptions, the ESA prohibits activities with listed species unless Federal authorization is issued that allows such activities. Permits issued under section 10 of the ESA allow activities for scientific purposes or to enhance the propagation or survival of the affected species. Regulations regarding permit issuance under the ESA are in title 50 of the Code of Federal Regulations in part 17. ESA permits cover a wide range of activities pertaining to foreign listed species, including import, export, and activities in the United States.

III. Permit Applications

We invite comments on the following applications.

Applicant: Safari Game Search Foundation, Winston, OR; Permit No. 79703C

The applicant requests a permit to import two captive-born cheetahs (*Acinonyx jubatus*) from Parc Safari in Quebec, Canada, to enhance the propagation or survival of the species. This notification is for a single import.

Applicant: Zoological Society of San Diego, San Diego, CA; Permit No. 86442C

The applicant requests a permit to authorize the import of wild live specimens, viable and non-viable eggs, biological samples, and salvaged materials of California condors (*Gymnogyps californianus*) originating in Mexico, as well as the re-import of captive-bred/captive-hatched live specimens, viable and non-viable eggs, biological samples, and salvaged materials of California condors originating in the United States, to enhance the survival of the species through completion of identified tasks and objectives mandated under the U.S. Fish and Wildlife Service California Condor Recovery Plan. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Memphis Zoo, Memphis, TN; Permit No. 66689C

The applicant requests a permit to import captive-bred, live, dusky gopher frogs (*Rana capito sevosa*) to enhance the survival of the species through completion of identified tasks and objectives mandated under the U.S. Fish and Wildlife Service Dusky Gopher Frog Recovery Plan. This notification covers activities to be conducted by the applicant over a 5-year period.

IV. Next Steps

If we issue a permit to any of the applicants listed in this notice, we will publish a notice in the **Federal Register**. You may locate the notice announcing the permit issuance by searching *http://www.regulations.gov* for the permit number listed above in this document. For example, to find information about the potential issuance of Permit No. 79703C, you would go to *http://www.regulations.gov* and search for ''79703C''.

V. Authority

We issue this notice under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and its implementing regulations.

Brenda Tapia,

Program Analyst/Data Administrator, Branch of Permits, Division of Management Authority.

[FR Doc. 2018–24280 Filed 11–6–18; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–HQ–IA–2018–0072; FXIA16710900000–178–FF09A30000]

Foreign Endangered Species; Receipt of Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on applications to conduct certain activities with foreign species that are listed as endangered under the Endangered Species Act (ESA). With some exceptions, the ESA prohibits activities with listed species unless Federal authorization is issued that allows such activities. The ESA also requires that we invite public comment before issuing permits for endangered species.

DATES: We must receive comments by December 7, 2018.

ADDRESSES:

Obtaining Documents: The applications, application supporting materials, and any comments and other materials that we receive will be available for public inspection at *http://www.regulations.gov* in Docket No. FWS–HQ–IA–2018–0072.

Submitting Comments: When submitting comments, please specify the name of the applicant and the permit number at the beginning of your comment. You may submit comments by one of the following methods:

- *Internet: http://www.regulations.gov.* Search for and submit comments on Docket No. FWS–HQ–IA–2018–0072.
- *U.S. Mail or Hand-Delivery:* Public Comments Processing, Attn: Docket No. FWS–HQ–IA–2018–0072; U.S. Fish and Wildlife Service Headquarters, MS: BPHC; 5275 Leesburg Pike; Falls Church, VA 22041–3803.

For more information, see Public Comment Procedures under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Brenda Tapia, by phone at 703–358–2104, via email at *DMAFR@fws.gov,* or via the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

A. How do I comment on submitted applications?

You may submit your comments and materials by one of the methods in **ADDRESSES**. We will not consider comments sent by email or fax, or to an address not in **ADDRESSES**. We will not consider or include in our administrative record comments we receive after the close of the comment period (see **DATES**).

When submitting comments, please specify the name of the applicant and the permit number at the beginning of your comment. Provide sufficient information to allow us to authenticate any scientific or commercial data you include. The comments and recommendations that will be most useful and likely to influence agency decisions are: (1) Those supported by quantitative information or studies; and (2) those that include citations to, and analyses of, the applicable laws and regulations.

B. May I review comments submitted by others?

You may view and comment on others' public comments on *http://www.regulations.gov,* unless our allowing so would violate the Privacy Act (5 U.S.C. 552a) or Freedom of Information Act (5 U.S.C. 552).

C. Who will see my comments?

If you submit a comment at *http://www.regulations.gov,* your entire comment, including any personal identifying information, will be posted on the website. If you submit a hardcopy comment that includes personal identifying information, such

as your address, phone number, or email address, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. Moreover, all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

II. Background

To help us carry out our conservation responsibilities for affected species, and in consideration of section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), we invite public comments on permit applications before final action is taken. With some exceptions, the ESA prohibits activities with listed species unless Federal authorization is issued that allows such activities. Permits issued under section 10 of the ESA allow activities for scientific purposes or to enhance the propagation or survival of the affected species. Regulations regarding permit issuance under the ESA are in title 50 of the Code of Federal Regulations in part 17. ESA permits cover a wide range of activities pertaining to foreign listed species, including import, export, and activities in the United States.

III. Permit Applications

We invite comments on the following applications.

Applicant: Dr. Viktoria Oelze, University of California Santa Cruz, Santa Cruz, CA; Permit No. 91602C

The applicant requests authorization to import non-invasively collected hair samples from wild chimpanzees (*Pan troglodytes*) in Tanzania for the purpose of scientific research. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Wildlife Conservation Society, Bronx, NY; Permit No. 85317C

The applicant requests authorization to import biological samples collected from wild, captive-held, and/or captive-born specimens of any and all endangered animal species from any and all worldwide locations, for the purpose of scientific research. No animals may be intentionally killed for the purpose of collecting such samples. Any invasively collected samples can only be collected by trained personnel. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Dr. Tom McCarthy, Panthera Corporation, New York, NY; Permit No. 91449C

The applicant requests authorization to import biological samples collected from wild snow leopards (*Unicia uncia*) in Kyrgyzstan for the purpose of scientific research. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Dmitri Petrov, Stanford University, Stanford, CA; Permit No. 93509C

The applicant requests authorization to import biological samples from wild African wild dog (*Lycaon pictus*) from Painted Dog Conservation, Harare, Zimbabwe, for the purpose of scientific research. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Six Flags Great Adventure Safari Park, Jackson, NJ; Permit No. 701129

The applicant requests renewal of a captive-bred wildlife registration under 50 CFR 17.21(g) for Siberian tiger (*Panthera tigris altaica*) to enhance the propagation or survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Wildlife Partners LLC, San Antonio, TX; Permit No. 98330C

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for Arabian oryx (*Oryx leucoryx*) to enhance the propagation or survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Lowry Park Zoological Society of Tampa, Inc. (ZooTampa at Lowry Park), Tampa, FL; Permit No. 90228C

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for Komodo Island monitor (*Varanus komodoensis*), yellow-footed rock wallaby (*Petrogale xanthopus*), great Indian rhinoceros (*Rhinoceros unicornis*), Asian tapir (*Tapirus indicus*), clouded leopard (*Neofelis nebulosa*) and African penguin (*Spheniscus demersus*), to enhance the propagation or survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Columbus Zoo and Aquarium, Powell, OH; Permit No. 72284C

The applicant requests a permit to import samples derived from wild black-and-white ruffed lemurs (*Varecia variegata*) from Centre ValBio Research Station, Ranomafana, Madagascar, for the purpose of scientific research. This notification is for a single import.

Applicant: Pinola Conservancy, Shreveport, LA; Permit No. 78121C

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for Japanese crane (*Grus japonensis*) and Cabot's tragopan pheasant (*Tragopan caboti*). This notification covers activities to be conducted by the applicant over a 5-year period.

Multiple Applicants

The following applicants request permits to import sport-hunted trophies of male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancing the propagation or survival of the species.

Applicant: Michael Stein, Francisco, IN; Permit No. 97800C
Applicant: Brenda Potterfield, Columbia, MO; Permit No. 98341C
Applicant: Nicholas Potterfield, Columbia, MO; Permit No. 98343C
Applicant: Sara Potterfield, Columbia, MO; Permit No. 98344C
Applicant: Rich Cabela, Sidney, NE; Permit No. 97878C
Applicant: Patrick Sands, Dallas, TX; Permit No. 98646C
Applicant: Nello Cooper, Fairbanks, AK; Permit No. 98051C
Applicant: Wyatt Norman, Corpus Christi, TX; Permit No. 97895C

IV. Next Steps

If we issue permits to any of the applicants listed in this notice, we will publish a notice in the **Federal Register**. You may locate the notice announcing the permit issuance by searching *http://www.regulations.gov* for the permit number listed above in this document. For example, to find information about the potential issuance of Permit No. 12345A, you would go to *regulations.gov* and search for ''12345A''.

V. Authority

We issue this notice under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and its implementing regulations.

Brenda Tapia,

Program Analyst/Data Administrator, Branch of Permits, Division of Management Authority.

[FR Doc. 2018–24348 Filed 11–6–18; 8:45 am]

BILLING CODE 4333–15–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1119]

Certain Infotainment Systems, Components Thereof, and Automobiles Containing the Same; Commission Determination To Review In Part, and on Review To Modify, an Initial Determination Granting-In-Part and Denying-In-Part Complainant's Motion To Amend the Complaint and Notice of Investigation To add Respondents

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review-in-part, and on review to modify, an initial determination (''ID'') (Order No. 14) of the presiding administrative law judge (''ALJ'') granting-in-part and denying-in-part complainant's motion for leave to amend the complaint and notice of investigation to add respondents; and extending the target date for completion of the above-captioned investigation to December 16, 2019.

FOR FURTHER INFORMATION CONTACT: Clara Kuehn, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–3012. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on June 12, 2018, based on a complaint filed by Broadcom Corporation of San Jose, CA (''Broadcom'' or ''complainant''). 83 FR 27349–50 (Jun. 12, 2018). The complaint, as supplemented, alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (''section 337''), in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain infotainment systems, components thereof, and automobiles containing the same by reason of infringement of U.S. Patent Nos. 6,937,187; 8,902,104; 7,512,752; 7,530,027; 8,284,844; and 7,437,583. *Id.* The notice of investigation named fifteen (15) respondents: Toyota Motor Corporation of Toyota City, Japan; Toyota Motor North America, Inc., Toyota Motor Sales, U.S.A., Inc., and Toyota Motor Engineering & Manufacturing North America, Inc. of Plano, TX; Toyota Motor Manufacturing, Indiana, Inc. of Princeton, IN; Toyota Motor Manufacturing, Kentucky, Inc. of Erlanger, KY; Toyota Motor Manufacturing, Mississippi, Inc. of Tupelo, MS; Toyota Motor Manufacturing, Texas, Inc. of San Antonio, TX; Panasonic Corporation of Osaka, Japan; Panasonic Corporation of North America of Newark, NJ; Denso Ten Limited of Kobe City, Japan; Denso Ten America Limited of Torrance, CA; Renesas Electronics Corporation of Tokyo, Japan; Renesas Electronics America, Inc. of Milpitas, CA; and Japan Radio Co., Ltd. of Tokyo, Japan (collectively, the ''current respondents''). *Id.* The notice of investigation did not name the Office of Unfair Import Investigations as a party to the investigation. *Id.*

On September 10, 2018, Broadcom filed a motion for leave to amend the complaint and notice of investigation to add four groups of additional respondents: (1) Pioneer Corporation; Pioneer North America, Inc.; and Pioneer Automotive Technologies, Inc.; (2) Denso Corporation; Denso International America, Inc.; Denso Manufacturing Tennessee, Inc..; and Denso Wireless Systems America, Inc. (collectively, ''the additional Denso respondents''); (3) u-blox AG; u-blox America, Inc.; and u-blox San Diego, Inc. (collectively, ''the u-blox respondents''); and (4) Socionext Inc. and Socionext America Inc.; and to extend the target date. On September 20, 2018, the current respondents jointly filed an opposition to Broadcom's motion to amend, and the four groups of additional respondents each filed an opposition to Broadcom's motion to amend. On September 25, 2018, Broadcom filed a reply.

On October 3, 2018, the ALJ issued the subject ID granting-in-part and denying-in-part complainant's motion. Specifically, the ALJ determined (1) to grant the motion as to adding as respondents each of the additional Denso respondents, each of the u-blox respondents; Pioneer Corporation; Pioneer Automotive Technologies, Inc.; and Socionext Inc; (2) to deny the motion as to adding Pioneer North America, Inc. and Socionext America, Inc. as respondents; and (3) to extend the target date by two months to December 16, 2019. The ID states that the final ID shall be due on August 16, 2019.

On October 11, 2018, the u-blox respondents jointly filed a petition for review of the ID. No other petitions for review were filed. On October 18, 2018, Broadcom filed its response.

The Commission has determined to review-in-part the ALJ's ID. Specifically, the Commission has determined to review the ALJ's finding (ID at 10) that ''[u]-blox does not deny its involvement in selling these components'' and, on review, modify it to read: ''Except with respect to u-blox San Diego, Inc., u-blox does not deny its involvement in selling these components. . . .''

The Commission has determined not to review the balance of the ID. Pioneer Corporation of Tokyo, Japan; Pioneer Automotive Technologies, Inc. of Farmington Hills, MI; Denso Corporation of Kariya, Aichi, Japan; Denso International America, Inc. of Southfield, MI; Denso Manufacturing Tennessee, Inc. of Maryville, TN; and Denso Wireless Systems America, Inc. of Vista, CA; u-blox AG of Thalwil, Switzerland; u-blox America, Inc. of Reston, VA; u-blox San Diego, Inc. of San Diego, CA; and Socionext Inc. of Yokohama, Kanagawa, Japan are now respondents in the investigation. The target date for completion of the investigation is December 16, 2019.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in Part 210 of the Commission's Rules of Practice and Procedure, 19 CFR part 210.

By order of the Commission.

Issued: November 1, 2018.

Lisa Barton

Secretary to the Commission.

[FR Doc. 2018–24288 Filed 11–6–18; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–590 and 731–TA–1397 (Final)]

Sodium Gluconate, Gluconic Acid, and Derivative Products From China

Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that an industry in the United States is materially injured by reason of imports of Sodium Gluconate, Gluconic Acid, and Derivative Products from China, provided for in subheadings 2918.16.10, 2918.16.50, and 2932.20.50 of the Harmonized Tariff Schedule of the United States, that have been found by the U.S. Department of Commerce (''Commerce'') to be sold in the United States at less than fair value (''LTFV''), and to be subsidized by the government of China.

Background

The Commission, pursuant to sections 705(b) and 735(b) of the Act (19 U.S.C. 1671d(b) and 19 U.S.C. 1673d(b)), instituted these investigations effective November 30, 2017, following receipt of a petition filed with the Commission and Commerce by PMP Fermentation Products (''PMP''), Inc., Peoria, Illinois. The final phase of the investigations was scheduled by the Commission following notification of preliminary determinations by Commerce that imports of Sodium Gluconate, Gluconic Acid, and Derivative Products from China were subsidized within the meaning of section 703(b) of the Act (19 U.S.C. 1671b(b)) and sold at LTFV within the meaning of 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on July 18, 2018 (83 FR 33944). The hearing was held in Washington, DC, on September 18, 2018, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission made these determinations pursuant to sections 705(b) and 735(b) of the Act (19 U.S.C. 1671d(b) and 19 U.S.C. 1673d(b)). It completed and filed its determinations in these investigations on October 31, 2018. The views of the Commission are contained in USITC Publication 4834 (October 2018), entitled *Sodium Gluconate, Gluconic Acid, and Derivative Products from China: Investigation Nos. 701–TA–590 and 731–TA–1397 (Final).*

By order of the Commission.

Issued: November 1, 2018.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2018–24287 Filed 11–6–18; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Medical CBRN Defense Consortium

Notice is hereby given that, on October 16, 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''), Medical CBRN Defense Consortium (''MCDC'') has 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 limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Allegheny-Singer Research Institute DBA AHN Institute, Pittsburgh, PA; Allotropic Tech, Halethorpe, MD; ASELL LLC, Owings Mills, MD; Clear Scientific LLC, Cambridge, MA; FLIR Detection, Inc., Stillwater, OK; FORGE Life Sciences, LLC, Doylestown, PA; IDBiologics, Inc., Nashville, TN; ImmPORT Therapeutics Inc. DBA Antigen Discovery Inc., Irvine, CA; Polo Custom Products, Topeka, KS; SIGA Technologies, Inc., New York, NY; The Albert Sabin Vaccine Institute, Inc. DBA Sabin Vaccine Institute, Washington, DC; VenatoRx Pharmaceuticals, Inc., Malvern, PA; and Windgap Medical, Inc., Watertown, MA, have been added as parties to this venture.

Also, Artificial Cell Technologies, Inc., New Haven, CT; Celdara Medical, LLC, Lebanon, NH; HORIBA Instruments, Inc., Edison, NY; Macromoltek, Austin, TX; Philips Healthcare, Andover, MA; Phosphorex Inc., Hopkinton, MA; PPD Development LP, Wilmington, NC; Sequoia Consulting Group, LLC, Lake Forest, CA; and University of Tennessee, Knoxville, Knoxville, TN, 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 MCDC intends to file additional written notifications disclosing all changes in membership.

On November 13, 2015, MCDC 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 January 6, 2016 (81 FR 513).

The last notification was filed with the Department on August 3, 2018. A notice was published in the *Federal Register* pursuant to Section 6(b) of the Act on August 24, 2018 (83 FR 42940).

Suzanne Morris,

Chief, Premerger and Division Statistics Unit, Antitrust Division.

[FR Doc. 2018–24335 Filed 11–6–18; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Spectrum Consortium

Notice is hereby given that, on October 29, 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''), National Spectrum Consortium (''NSC'') has 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 limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Geon Technologies, LLC, Columbia, MD; Herrick Technology Laboratories, Inc., Germantown, MD; T2S, LLC, Whiteford, MD; GenXComm, Inc., Austin, TX; Beatty and Company Computing, Inc., Rancho Santa Fe, CA; Baylor University, Waco, TX; Applied Engineering Concepts, Inc., Eldersburg, MD; and OST, Inc., McLean, VA, have been added as parties to this venture.

Also, Interoptek, Inc., N. Charleston, SC; Kranze Technology Solutions, Inc., Prospect Heights, IL; and G5 Scientific,

LLC, Burlington, MA, 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 NSC intends to file additional written notifications disclosing all changes in membership.

On May 24, 2014, NSC 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 November 4, 2014 (72 FR 65424).

The last notification was filed with the Department on May 14, 2018. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on June 19, 2018 (83 FR 28449).

Suzanne Morris,

Chief, Premerger and Division Statistics Unit, Antitrust Division.

[FR Doc. 2018–24334 Filed 11–6–18; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

On November 1, 2018, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Southern District of Ohio in the lawsuit entitled *United States* v. *The Atlas-Lederer Company, et al.,* Civil Action No. 3:91–CV–00309.

The United States filed this lawsuit under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). The complaint seeks recovery of costs incurred or to be incurred in connection with the release or threatened release of hazardous substances at the United Scrap Lead Superfund Site in Concord Township, Miami County, Ohio. Three defendants are parties to the proposed Consent Decree: Caldwell Iron & Metal, Larry Katz, and Edison Automotive Inc. Caldwell Iron & Metal and Larry Katz collectively agree to pay $82,492 plus interest over three years. Edison Automotive Inc. agrees to pay $22,334. In return, the United States agrees not to sue the defendants under sections 106 and 107 of CERCLA.

The publication of this notice opens a period for public comment on the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *The Atlas-Lederer Company, et al.* D.J. Ref. No. 90–11–3–279B. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ–ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the proposed Consent Decree may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the proposed Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ–ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $5.00 (25 cents per page reproduction cost) payable to the United States Treasury.

Randall M. Stone,

Acting Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2018–24296 Filed 11–6–18; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as Amended (''CERCLA'')

On October 31, 2018, the Department of Justice lodged a proposed consent decree with the United States District Court for the Western District of Michigan in the lawsuit entitled *United States of America* v. *City of Ironwood, Michigan,* Civil Action No. 2:18–cv–195.

The United States filed this lawsuit under CERCLA. The complaint requests recovery of costs that the United States incurred in responding to releases of hazardous substances at the Ironwood Manufactured Gas Plant Site in Ironwood, Michigan. The City of Ironwood agrees to pay $170,000 of the United States' response costs and maintain engineering controls at the Site. In return, the United States agrees not to sue the City of Ironwood under Section 107(a) of CERCLA.

The publication of this notice opens a period for public comment on the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States of America* v. *City of Ironwood, Michigan,* D.J. Ref. No. 90–11–3–11704. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ–ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the consent decree may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the consent decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ–ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $13.75 (25 cents per page reproduction cost) payable to the United States Treasury.

Randall M. Stone,

Acting Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2018–24295 Filed 11–6–18; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act and the Federal Debt Collection Procedures Act

On October 31, 2018, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Western District of Missouri in the matter entitled *United States of America, et al* v. *Blue Tee Corp., Brown Strauss, Inc., David P. Alldian, Richard A. Secrist, and William M. Kelly* Case No. 3:18–cv–5097. The Consent Decree resolves claims against Blue Tee Corp. (''Blue Tee'') and Brown Strauss Inc. (''BSI'') under the Comprehensive Environmental

Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. 9601 *et seq.* The claims involved are asserted by the United States on behalf of the Environmental Protection Agency, the Department of Agriculture, and the Department of Interior, and claims are asserted by the states of Colorado, Oklahoma, Missouri, Kansas, Illinois, Montana, Tennessee, and by the Eastern Shawnee Tribe of Oklahoma, the Ottawa Tribe of Oklahoma, the Peoria Tribe of Indians of Oklahoma, the Seneca-Cayuga Nation, the Wyandotte Nation, the Miami Tribe of Oklahoma and the Cherokee Nation (''the Governments''). The Consent Decree also resolves claims against Blue Tee, David P. Alldian, Richard A. Secrist, and William M. Kelly (''D&O Defendants'') under the Federal Debt Collection Procedures Act (''FDCPA''), 28 U.S.C. 3301 *et. seq.* and similar state and tribal laws. Under the Consent Decree, the Governments will share in payments from the Settling Defendants totaling $75,725,000 which will be allocated on a site by site basis as set forth in the Consent Decree. In this Consent Decree the United States grants covenants not to sue for the following Sites: Old American Zinc Plant, Sauget Industrial Corridor, and Asarco Taylor Springs Sites in Illinois; the Tar Creek Site in Oklahoma; the Cherokee County, Caney Residential Yards, American Zinc, Lead and Smelting Company, Dearing, Neodesha, Owen Zinc, and East La Harpe Smelter Sites in Kansas; the Jasper County and Newton County Sites in Missouri; the Carpenter-Snow Creek Mining Site in Montana; the Klondyke Tailings Site in Arizona; the Bonita Peak and Ouray Sites in Colorado; the Rockwood Iron and Metal Site in Tennessee; and the Anderson-Calhoun Mine & Mill and the Grandview Mine & Mill Sites in Washington. The CERCLA claims arise from the Blue Tee's and BSI's liabilities under Section 107(a) of CERCLA, 42 U.S.C. 9607(a), for costs incurred and to be incurred relating to the sites listed above.

The publication of this notice opens a period for public comment on the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States of America, et al.* v. *Blue Tee Corp., Brown Strauss, Inc., David P. Alldian, Richard A. Secrist, and William M. Kelly* Case No. 3:18–cv–5097, D.J. Ref. No. 90–11–2–330/12. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ–ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ–ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $10.75 (25 cents per page reproduction cost) payable to the United States Treasury.

Susan M. Akers,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2018–24300 Filed 11–6–18; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

[Exemption Application No. D–11938]

Notice of Proposed Exemption Involving Retirement Clearinghouse, LLC (RCH or the Applicant)—Located in Charlotte, North Carolina

AGENCY: Employee Benefits Security Administration, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document gives notice of a proposed individual exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (ERISA or the Act) and/or the Internal Revenue Code of 1986 (the Code).

DATES: Written comments and requests for a public hearing on the proposed exemption should be submitted to the Department December 24, 2018.

If the Department of Labor (Department) grants this proposed exemption, it will be effective for five years beginning on the date a final exemption is published in the **Federal Register**.

ADDRESSES: Comments should state the nature of the person's interest in the proposed exemption. If the commenter would be adversely affected by the exemption's approval, the comment should describe the manner in which the commenter will be adversely affected. A request for a hearing can be requested by any interested person who may be adversely affected by an exemption. A request for a hearing must state: (1) The name, address, telephone number, and email address of the person making the request; (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption; and (3) a statement of the issues to be addressed and a general description of the evidence to be presented at the hearing. The Department will grant a request for a hearing made in accordance with the requirements above where a hearing is necessary to fully explore material factual issues identified by the person requesting the hearing. A notice of such hearing shall be published by the Department in the **Federal Register**. The Department may decline to hold a hearing if: (1) The request for the hearing does not meet the requirements above; (2) the only issues identified for exploration at the hearing are matters of law; or (3) the factual issues identified can be fully explored through the submission of evidence in written (including electronic) form.

All written comments and requests for a hearing (at least three copies) should be sent to the Employee Benefits Security Administration (EBSA), Office of Exemption Determinations, U.S. Department of Labor, 200 Constitution Avenue NW, Suite 400, Washington, DC 20210. Attention: Application No. D–11938. Interested persons are also invited to submit comments and/or hearing requests to EBSA via email or FAX. Any such comments or requests should be sent either by email to: *e-oed@dol.gov,* or by FAX to (202) 693–8474 by the end of the scheduled comment period. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of the Employee Benefits Security Administration, U.S. Department of Labor, Room N–1515, 200 Constitution Avenue NW, Washington, DC 20210.

Warning: All comments received will be included in the public record without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be confidential or other information whose disclosure is restricted by statute. If you submit a

comment, EBSA recommends that you include your name and other contact information in the body of your comment, but DO NOT submit information that you consider to be confidential, or otherwise protected (such as your Social Security number or an unlisted phone number) or confidential business information that you do not want publicly disclosed. However, if EBSA cannot read your comment due to technical difficulties and cannot contact you for clarification, EBSA might not be able to consider your comment. Additionally, the *http://www.regulations.gov* website is an ''anonymous access'' system, which means EBSA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email directly to EBSA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public record and made available on the internet.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Brennan of the Department at (202) 693–8546. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: This document contains a notice of proposed exemption that, if granted, would provide exemptive relief from the sanctions resulting from the application of Code section 4975, by reason of sections 4975(c)(1)(D) and (E) of the Code. The proposed exemption has been requested by RCH pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (76 FR 66637, 66644, October 27, 2011).[1] Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of proposed exemption is issued solely by the Department.

Summary of Facts and Representations[2]

1. RCH is a limited liability corporation headquartered in Charlotte, North Carolina. RCH has two wholly-owned subsidiaries: RCH Securities, LLC, a broker-dealer member of FINRA; and RCH Shareholder Services, a registered transfer agent.

2. RCH has developed an Auto-Portability Program (the RCH Program) that is designed to help employees who may have multiple job changes over their careers consolidate small accounts held in prior employers' individual account plans and rollover IRAs into their new employers' individual accounts or 401(k) plans. The objective of the RCH Program is to improve overall asset allocation, eliminate duplicative fees for small retirement saving accounts, and reduce leakage of retirement savings from the tax-deferred retirement saving system.[3]

3. The RCH Program services are designed to facilitate: (a) Automatic rollovers into default IRAs pursuant to 29 CFR 2550.404a–2 from accounts in plans of individuals' former employers that are eligible for mandatory distribution under Code section 401(a)(31)(B) (Eligible Mandatory Distribution Accounts); (b) automatic rollovers into default IRAs pursuant to 29 CFR 2550.404a–3 of account balances from terminated defined contribution plans (Terminated Plan Accounts); and (c) automatic roll-in of funds in these default IRAs (Default IRAs) to an individual account plan maintained by the IRA owners' new employer when the IRA owner changes jobs.

4. RCH uses a ''locate, match, and transfer'' technology that performs periodic queries of cooperating record-keepers' systems to ascertain if the IRA owner has become a participant in an individual account plan through re-employment. If the individual subsequently participates in a different individual account plan, RCH's service is designed to transfer the individual's Default IRA assets to that new plan. Some plans may elect to use Code section 401(a)(31)(B) for mandatory distributions to a Default IRA only after the RCH Program's locate and match services identify that the participant maintains an active plan account in the individual account plan of the separated participant's new employer.

5. Under the RCH Program, participating plan sponsors designate RCH or a participating record-keeper to be the plan's Default IRA provider for automatic rollovers of mandatory distributions under Code section 401(a)(31)(B) and for distributions from terminated defined contribution plans. The plans also agree to adopt plan amendments and resolutions necessary to carry out transfers under the RCH Program and to make disclosures to plan participants and beneficiaries about the RCH Program. The plans also agree that RCH and the participating record-keeper may use plan data to facilitate the RCH Program. An unaffiliated bank will be the custodian of the RCH Default IRA assets, and financial institutions unrelated to RCH or its affiliates will provide all investment products and investment management services for the RCH Default IRAs.

6. RCH will generally enter into a Master Services Agreement (a Master Agreement) with record-keepers that will offer the RCH Program to their plan sponsor clients. The Master Agreement will describe how record-keepers and RCH will locate the accounts of individuals with Safe Harbor IRAs and Eligible Mandatory Distribution Accounts who have Plan accounts with their current employers (New Plan Accounts). The Plan sponsor or other plan fiduciary that is independent of RCH (an independent plan fiduciary) may approve of the RCH Program by executing agreements with their record-keepers (Record-keeping Agreements). Alternatively, independent plan fiduciaries may approve of the use of the RCH Program through a direct agreement with RCH (an RCH Agreement). The Record-keeping Agreement or RCH Agreement will provide that the account balance of an individual's Default IRA or Eligible Mandatory Distribution Account may be transferred to the plan of the individual's current employer if the RCH locate and match process determines that the individual maintains a New Plan Account with that employer.

7. The RCH Program portability process begins with the employer or plan sending RCH data for separating participants in ongoing plans or participants in terminating plans, as applicable. RCH uses the following information to determine whether it can confirm a match: Social security number; first name; last name; middle name or initial; address; city; state; zip code; date of birth; and phone number on file. RCH does not share, sell or market any data obtained under the RCH Program, nor does it use the data for any purpose other than implementation of the RCH Program. All fees received by RCH in connection with the RCH Program are disclosed to, and approved by, the independent plan fiduciary in the applicable Record-keeping Agreement and/or RCH Agreement.

[1] For purposes of this proposed exemption, references to the provisions of Title I of ERISA, unless otherwise specified, refer also to the corresponding provisions of the Code.

[2] The Summary of Facts and Representations is based on the Applicant's representations and does not reflect factual findings or opinions of the Department, unless indicated otherwise.

[3] This exemption does not cover transactions involving accounts with balances above $5,000 at the time of transfer to the new account.

RCH as Default IRA Provider

8. In the case of ongoing plans, RCH receives information identifying separated participant accounts that are subject to mandatory distribution under the Code. RCH sends a letter (a Mandatory Distribution Letter) informing the separated participants that their accounts will be automatically rolled over into a Default IRA unless they give affirmative directions on the disposition of their accounts within 30–90 days, depending on the time period selected by the independent plan fiduciary.[4] In the case of a terminating plan, RCH sends a similar letter to all participants. RCH sends the notices required under the RCH Program to the last known address of the individual, as received from the individual's current employer. Individuals that are ''lost'' or ''missing'' do not participate in the RCH Program.[5] RCH barcodes and scans each letter that is sent or received, and records internally when each letter is mailed.[6] The Mandatory Distribution Letters also explain the plan's distribution options, disclose all fees and features of the RCH Program, and include a Code-required notice explaining various tax rules for eligible rollover distributions. All RCH Program communications are written to be easily understood by the recipient. The Mandatory Distribution Letters describe the RCH Program's automated transfer of the Default IRA to a new employer's individual account plan based on RCH's periodic automated searches for current employment status of Default IRA owners. The Mandatory Distribution Letters also advise that individuals may opt out of the automated transfer service, and the letters include a toll-free number and information on contacting RCH. RCH represents that individuals receiving Mandatory Distribution notices are effectively given the opportunity to opt out by the use of a phone number that is operational and with a clearly available opt out choice in the main menu.

9. RCH call center personnel are not licensed broker-dealers or registered investment advisers, and do not give legal, investment, or tax advice. Call center personnel are only authorized to: (a) Provide educational information on consolidating assets in a single 401(k) plan; (b) assist with the paperwork needed to create a new IRA, roll plan assets over to an IRA, or authorize a transfer to a new employer's 401(k); (c) provide educational information to participants on the benefits of accumulating assets for retirement; (d) discuss the consequences of cashing out of a 401(k) or IRA; (e) verify the participant or Default IRA holder's identity; and (f) provide educational information on QDROs and beneficiaries.

10. If the individual fails to respond to the Mandatory Distribution Letter within the stated timeframe, the independent plan fiduciary will direct the transfer of assets from the plan to the Default IRA. The custodian of the IRA assets will be an unaffiliated bank, and all investment products and investment management services for the IRAs will be provided by financial institutions that are unrelated to RCH and its affiliates. RCH will send a second notice to the individual (the Welcome Letter) no later than one business day after the assets are received by the Default IRA. The Welcome Letter will include the following information and disclosures: (a) The dollar amount of the IRA's assets; (b) identification of the investment fund in which the IRA's assets are invested; (c) a trade confirmation; (d) contact information including toll-free numbers for the call center and on-line access instructions; (e) a full and complete statement of all fees that are charged to the Default IRA, including all compensation, direct or indirect, received by RCH, related parties and participating record-keepers; (f) notice that the individual may instruct RCH or the participating record-keeper to transfer his or her balance from the Default IRA to another account at any time before the transfer of the IRA funds to the individual's account at his or her current employer plan, and that RCH will not transfer the Default IRA for at least 60 days from the date of the Welcome Letter.

11. While the assets are in the Default IRA, participating record-keepers will use the RCH electronic records matching technology to search periodically (and no less than monthly) their plan/participant records, to identify potential matches of plan and IRA accounts. When there is a match, RCH validates the account information and sends a ''Consent Letter'' requesting that the IRA owner/participant consent to transfer the IRA funds to the new employer's individual account plan. Since a transfer only occurs when the individual is identified as a participant in a new employer's plan, the Consent Letter is sent to the address provided to RCH by the record-keeper for the participant's new employer's plan (based on the assumption that the new employer's plan has the most up-to-date address for the individual). The participant can approve this ''roll-in transaction'' through affirmative consent. If the participant does not respond within 30 days of receipt of the Consent Letter, by affirmatively assenting or declining the roll-in, the RCH Program activates its default roll-in transaction provisions. Before a default roll-in occurs, the new employer's plan must agree to accept the roll-in under the terms in the new employer's plan. Once the new employer plan consents to the roll-in, RCH: Closes the IRA after withdrawing applicable fees from the IRA; and directs the roll in of the remaining balance into the participant's new-employer plan (which the responsible fiduciaries would automatically invest in the new employer's plan according to the participant's current investment elections, or if the participant has not made an election, into the plan's qualified default investment alternative). RCH then sends a notice to the IRA owner of the transfer of IRA funds to the new employer's plan, which will describe all the fees incurred by the IRA.

Conduit Model Transfers

12. A plan sponsor may designate a participating record-keeper (other than RCH) to be the plan's Default IRA provider. If the record-keeper participates in the RCH Program, the Mandatory Distribution Letter, Welcome Letter, and the Consent Letter will all be sent to the individual by the participating record-keeper or RCH. In the case of a match, assets from a default IRA maintained by the participating record-keeper will be transferred to the new employer plan through a RCH default IRA acting as a conduit.

Alternatively a plan sponsor may maintain an Eligible Mandatory

[4] The Mandatory Distribution Letter is sent no later than the following business day after RCH receives the file from the plan sponsor indicating that a plan participant is eligible for mandatory distribution under section 401(a)(31)(B) of the Code.

[5] If RCH sends a Mandatory Distribution Letter to an individual's last known address and it is returned to RCH as undeliverable, RCH removes the individual from the portability features of the Program. RCH thereafter performs ongoing participant address validation searches via automated checks of National Change of Address records, two separate commercial locator databases, and RCH internal databases. These searches occur twice in the first year a participant's account is entered into the RCH system and once a year thereafter. RCH will also perform manual internet-based search activities in cases where a valid participant address is not obtained from the automated database checks. RCH will only reintroduce the individual to the Program upon receipt of a valid address.

[6] As the Department's Comment section below notes, RCH must take all prudent actions necessary to reasonably ensure that participant and beneficiary data are current and accurate, and that the appropriate participants and beneficiaries actually receive all of the required notices and disclosures, until the assets are transferred to a new plan account under the RCH Program.

Distribution Account in its plan. If RCH or a participating record-keeper determines that an individual has a New Plan Account at the individual's current employer, RCH or the participating record-keeper will send the individual a Mandatory Distribution Letter and a Consent Letter seeking affirmative consent from the individual to transfer the assets to the new plan. The Mandatory Distribution Letter will note that if the individual fails to contact RCH within 60 days of the Consent Letter, the individual's account balance will be transferred to the plan of the individual's current employer through an RCH Default IRA unless the individual ops out of the transfer. The Consent Letter will fully state the fees and other compensation, direct or indirect, of any type, associated with the RCH Program, and will explain that if the individual fails to opt out of the RCH Program within 60 days of receiving the Consent Letter, the assets will be transferred to the New Plan Account. If, after 30 days, the participant has not contacted RCH with instructions to opt in or opt out of the RCH Program, RCH will call the participant seeking consent to transfer the assets to the individual's new employer plan. RCH will send another Consent Letter that will reiterate the fees and compensation associated with the RCH Program. The second Consent Letter will explain that, unless the individual opts out of the RCH Program within 30 days of receiving the letter, RCH will direct the transfer of the assets to the New Plan Account (which the responsible fiduciaries would automatically invest in the new employer's plan according to the participant's current investment elections, or if the participant has not made an election, into the plan's qualified default investment alternative).

13. If the individual does not provide affirmative direction to RCH within 30 days of the applicable Consent Letter, the assets of the Eligible Mandatory Distribution Account, or, if applicable, the assets of the non-RCH Default IRA, will be transferred to an RCH Default IRA, and then to the individual's New Plan Account.

Fees

14. RCH, related parties and record-keepers will fully disclose to an independent plan fiduciary all fees and other compensation, direct or indirect, that they may receive in connection with the RCH Program. The independent plan fiduciary must approve any such fees or compensation prior to receipt. If RCH is selected as the Default IRA provider by the plan sponsor, the sole fees paid in connection with the IRA are: (a) A monthly administrative fee covering the provision of administrative services to the IRA; (b) a distribution fee in the event that the IRA is terminated and the IRA owner decides to cash out or transfer the IRA account balance to another qualified retirement plan; (c) a sub-transfer agency fee that the IRA investment provider pays to RCH, after the provider is selected by the plan's independent fiduciary; (d) a one-time communication fee, that reimburses RCH solely for the cost of issuing notices and forms associated with effectuating the transfer to a Default IRA; and (e) a distribution/roll-in fee (a Transfer Fee) paid if the IRA is terminated and the IRA account balance is rolled in to a new employer plan with the assistance of RCH. RCH receives only the Transfer Fee and communication fee if RCH is not selected as the Default IRA provider. The custodian of the IRA assets will be an unaffiliated bank, and all investment products and investment management services for the IRAs will be provided by financial institutions that are unrelated to RCH and its affiliates.

15. RCH will not have authority to increase the amounts or types of fees or compensation received for these services once a Default IRA is established. Under the RCH Program's current pricing structure, the Transfer Fee will not exceed $59 for Account balances of $590 or more. If a participant's balance falls below $590 at the time of consolidation, the Transfer Fee will be reduced to not more than 10 percent of the balance. Account balances of $50 or less do not pay a Transfer Fee. There also is a 20 percent reduction in the fee charged to an accountholder when the annual volume of roll-in transactions exceeds 1 million transactions per year, *i.e.,* the benefits of scale are passed on to participants in the form of reduced fees. The participating plans' summary plan descriptions must fully disclose all fees and expenses under the RCH Program.[7] RCH additionally states that if an individual does not respond to the applicable Consent Letter, or is unreachable by phone within a 10-day window following the last day of the Consent Letter, RCH will place a sell order with the mutual fund held in the Default IRA account. RCH will receive no sub transfer agency fee in connection with services rendered after the settlement date set forth in the applicable mutual fund's prospectus (the Settlement Date). In no case will the Settlement Date be later than three days following the date the relevant sell order is placed. RCH has no discretion regarding the timing of the Settlement Date. Further, once RCH has identified a match that will lead to a transfer to a new employer's plan, RCH will no longer charge the IRA the monthly administrative fee.[8]

16. According to RCH, a computer simulation by the Employee Benefits Research Institute (EBRI) and Boston Research Technologies, suggests that the probability of the RCH program finding a missing participant in a new employer's plan is 66% (of all accounts owned by participants in the Program) in the first year, assuming that all record-keepers to plans participate in the RCH Program. That percentage increases to 85% when extending searches to subsequent years. Because these figures relate to the entire U.S. labor force, the likelihood of a match will depend on the number of record-keepers actually participating in the RCH Program. If record-keepers that participate in the RCH Program comprised 50% of the U.S. retirement market, RCH expects that approximately 33% of all accounts owned by participants in the Program would result in a match during the first year.

17. Individuals covered by the RCH Program will receive Annual Statements (Annual Statements). Among other things, the Annual Statement will: (a) Fully and accurately describe all of the fees and compensation, direct or indirect, received by RCH, related parties and participating record-keepers; (b) explain the material features of the RCH Program, and; (c) tell the individual how to contact RCH and direct RCH or the participating record-keeper to transfer the balance into the plan of their current employer or another qualified designated investment alternative (QDIA) under the QDIA regulation (29 CFR 2550.404c–5). RCH states that following the Transfer, RCH or the participating record-keeper will send the individual a confirmation that includes a description of the Transfer Fee.

[7] The Department expresses no view as to the reasonableness of the maximum charges set forth in this paragraph, including the Transfer Fee, and notes that RCH may not receive fees or compensation, direct or indirect, in excess of reasonable compensation within the meaning of 29 CFR 2550.408b–2 and 29 U.S. Code § 1108(b)(2).

[8] The fees and compensation are subject to the conditions of section 408(b)(2) of ERISA and section 4975(d)(2) of the Code. Also, to be eligible for the fiduciary safe harbor relief provided by 29 CFR 2550.404a–2 and 29 CFR 2550.404a–3 the fees and compensation associated with the maintenance of the Default IRAs must meet the conditions of those regulations.

Exemption Request for RCH's Receipt of Transfer Fee

18. RCH requests an exemption for the receipt of the Transfer Fee in connection with the transfer under the RCH Program, of an individual's Default IRA or Eligible Mandatory Distribution Account assets to the individual's New Plan Account, without the individual's affirmative consent. Absent affirmative consent of the IRA owner/participant, RCH acts as a fiduciary within the meaning of section 4975(e)(3) of the Code in deciding to transfer the individual's RCH default IRA to the individual's new employer plan. Similarly, absent affirmative consent of the IRA owner/participant, in situations where a default IRA maintained by a third party record keeper is transferred to an RCH default IRA acting as a conduit to facilitate the transfer to an new employer's plan, RCH acts as a fiduciary within the meaning of section 4975(e)(3) of the Code in directing the transfer of the individual's default IRA to the RCH default IRA and subsequently to the new employer's plan.

Section 4975(c)(1)(D) of the Code prohibits a fiduciary from causing a plan to engage in a transaction, if he or she knows or should know that the transaction constitutes a direct or indirect transfer to, or use by or for the benefit of, a party in interest of any assets of a plan. Section 4975(c)(1)(E) of the Code prohibits a fiduciary with respect to a plan from dealing with the assets of the plan in its own interest or for its own account.

RCH's receipt of an additional fee (the Transfer Fee) in connection with transferring assets from a Default IRA to an individual's New Plan Account, without the individual's affirmative consent, violates sections 4975(c)(1)(D) and (E) of the Code, absent an exemption.

In the Interest of Affected Participants

19. The Department has tentatively determined that the proposed exemption is in the interest of affected participants. In this regard, according to RCH, America's mobile workers too often receive cash distributions when they change jobs, depleting their retirement savings. RCH states that this leakage of retirement savings occurs at the highest percentages among individuals with the smallest accounts. RCH states that a significant portion of individuals who cash out small accounts are susceptible to financial exploitation. RCH posits that its Program could reduce retirement savings leakage by more than 50 percent for these small accounts. The conditions of the proposed exemption are designed to ensure that the interest of participants, beneficiaries, and IRA owners in their retirement assets are protected and managed in accordance with the applicable provisions of ERISA and the Internal Revenue Code.

Protective of the Rights of Participants and Beneficiaries

20. The Department has tentatively determined that the proposed exemption is protective of affected plan participants. The RCH program, service providers, and associated fees are fully disclosed and approved by independent plan fiduciaries. All fees and compensation associated with the program are fully subject to the protections of section 408(b)(2) of ERISA and section 4975(d)(2) of the Code. In addition, RCH represents that it has no financial incentives that would lead a reasonable person to believe that it is steering accounts to custodians, service providers, or investment providers based on its own financial interests, as opposed to the interests of the plan participants and IRA owners. Also, all fees charged to the Default IRA and Eligible Mandatory Distribution Account are frozen at the time the decision is made to transfer the assets from the Default IRA or Eligible Mandatory Distribution Account to the individual's current employer plan. In addition, RCH will not include exculpatory provisions in its contracts disclaiming or limiting RCH's liability for any improper transfers from a Default IRA or Eligible Mandatory Distribution Account. The provisions of the exemption were designed with the aim of ensuring that the rights of plan participants, beneficiaries, and IRA owners are protected.

Administratively Feasible

21. The Department has tentatively determined that the proposed exemption is administratively feasible because all terms of the RCH Program including those governing Transfers must be clearly defined, reviewed, and contractually agreed to by the independent fiduciaries of the distributing and receiving plans. The Department notes that, as described below, an independent auditor will review the RCH Program, and submit a written report to the Department regarding the level of compliance of RCH to the notification, fee and distribution requirements of this exemption. In addition, the exemption will be subject to renewal after a five-year period. At that time, RCH will be expected to submit a new application providing the information necessary to assess the success of the program, as well as any shortcomings. Because of these protections, it is administratively feasible for the Department to issue the exemption and administer its responsibilities in connection with the exemption.

Department's Comment and Additional Conditions

22. As noted above, RCH states that its Program will help achieve better overall asset allocation and eliminate duplicative fees through the consolidation of small retirement savings accounts, and that it will reduce leakage of retirement savings out of the tax-deferred retirement saving system. In proposing this exemption, the Department expects that the RCH Program will provide meaningful benefits to a significant number of individuals with Default IRAs or Eligible Mandatory Distribution Accounts. Because the RCH Program is new and the Department cannot confidently determine how successful the RCH Program will be at achieving its objectives, the Department proposes to limit the term of this exemption to five years. As part of its application to renew the exemption, RCH would be expected to provide information on the extent to which the RCH Program has provided meaningful benefits to a significant number of individuals with Default IRAs or Eligible Mandatory Distribution Accounts, including analysis of its success in matching accounts with new employers' plans. Similarly, RCH would be expected to show that asset transfers under the RCH Program were performed accurately, without undue delay, and with RCH receiving no more than the fees and compensation disclosed to, and approved by, the applicable independent plan fiduciaries.

The Department is also proposing the following additional conditions. RCH must submit to an annual audit, performed by a qualified independent auditor (an Independent Auditor), in order to protect affected Plan participants. The Independent Auditor must be a person or entity with extensive knowledge of ERISA, the Code and the types of transactions that are described in this exemption, and who is capable of reviewing and analyzing the RCH Program and the requirements of this exemption in a manner sufficient to perform the audit. The Independent Auditor may derive no more than 2 percent of its annual compensation from services provided directly or indirectly to RCH or to any of its affiliates or related parties.

An audit is necessary, in part, because the individual plan fiduciaries responsible for authorizing and monitoring Program participation would otherwise lack the information necessary to determine that the asset transfers, notices, and investments contemplated by the RCH Program have been performed in compliance with the law and in accordance with the terms of the relevant Agreements. The exemption therefore requires the Independent Auditor to review a representative sample of transactions sufficient for the Independent Auditor to determine whether: (a) The notices met the timing and content requirements of this exemption, and were written and delivered in a manner reasonably designed to ensure that affected individuals would both receive and understand the notices; (b) asset transfers were conducted in accordance with this exemption and the Agreements, and the New Plan Accounts, participants, and beneficiaries received all the assets they were due pursuant to the methodology (i) authorized in advance by independent fiduciaries of the affected Plans, and (ii) properly disclosed to affected individuals; (c) fees and compensation, direct or indirect, of any type, that RCH, related parties and participating record-keepers received in connection with the RCH Program are consistent with the fees authorized by appropriate Plan fiduciaries; were properly disclosed to the affected individuals in accordance with the terms of this exemption; did not exceed reasonable compensation, as defined in Section 408(b)(2) of ERISA, Section 4975(d)(2) of the Code and 29 CFR 2550.408c–2 of the Department's regulations; (d) individuals receiving Mandatory Distribution notices were effectively given the opportunity to opt-out by the use of a phone number that was operational and with a clearly available opt-out choice in the main menu [9] and (e) the other conditions of this exemption have been met.

The Auditor must complete the audit within six months following the twelve-month period to which the audit relates, and must submit a written report to the Office of Exemption Determinations within thirty days. The audit report will become a part of the public record for this exemption. The report must contain the methodology used by the Auditor and a detailed assessment of the degree of RCH's compliance with the findings required by the audit.

23. This exemption also requires that RCH not sell or market the plan or participant data it obtains in connection with the RCH Program to third parties, nor may it use the data for any purpose other than the proper administration of the RCH Program. Further, RCH may not receive any fees or compensation, direct or indirect, from third parties other than an asset-based, sub-transfer agency fee that is paid to RCH from an IRA investment provider that is selected by an independent plan fiduciary, solely for shareholder services related to the investment options in which RCH Default IRA assets are invested under the RCH Program. RCH may not in any way, directly or indirectly, act in a manner that affects the amount of sub-transfer agency fee it receives under the Program. In this regard, the amount of sub-transfer agency fee received by RCH must result solely from written directions and written agreements between plan sponsors and investment funds that are independent of RCH, without any influence or direction from RCH.

RCH may not restrict or limit the ability of unrelated third parties to develop, market and/or maintain a locate-and-match process separate from RCH's process that facilitates the transfer of Default IRA assets or Eligible Mandatory Distribution Account assets to an individual's New Plan Account (*e.g.,* by requiring record-keepers to exclusively use RCH for such processes). RCH may not receive more than reasonable compensation for its services within the meaning of Section 408(b)(2) of ERISA, Section 4975(d)(2) of the Code, and 29 CFR 2550.408c–2 of the Department's regulations, and RCH must comply with its obligations as a covered service provider under 29 CFR 2550.408b–2. RCH represents that it will not provide investment advice, as described in ERISA section 3(21) or Code Section 4975(e)(3) and accompanying regulations, to individuals with assets held in a Default IRA or Eligible Mandatory Distribution Account, in connection with any transaction relating to the RCH Program.

24. RCH may not include exculpatory provisions in its contracts disclaiming or limiting RCH's liability in the event that the RCH Program results in an improper transfer from a Default IRA or Eligible Mandatory Distribution Account. RCH may not improperly delay transfers from a Default IRA or Eligible Mandatory Distribution Account to a New Plan Account. In this regard, the RCH Program must query on at least a monthly basis whether a participant with a New Plan Account in the RCH Program has a Default IRA or an Eligible Mandatory Distribution Account covered by the RCH Program. Where the RCH Program identifies a match, if the affected individual does not make a timely response to the notifications described above, the assets of the Default IRA or Eligible Mandatory Distribution Account must be immediately transferred to the participant's New Plan Account following the Settlement Date. RCH may not have any discretion under the RCH Program to affect the timing or amount of the transfer, other than to deduct the appropriate fees.

25. All fees and expenses under the RCH Program must be fully disclosed in participating plans' summary plan descriptions.

26. RCH must verify the accuracy of all participant and beneficiary data, including address and identification information, at the time assets are first transferred to a Default IRA or Eligible Mandatory Distribution Account for participation in the RCH Program. All Program-related communications to the individuals must adhere to a plain language standard, designed to ensure that affected individuals understand the communications. RCH must take all prudent actions necessary to reasonably ensure that participant and beneficiary data are current and accurate, and that the appropriate participants and beneficiaries, in fact, receive all the required notices and disclosures, until the assets are transferred pursuant under the program to a new plan. Once RCH has identified a match that will lead to a transfer to a new employer's plan, RCH will no longer charge the IRA the monthly fee.

Notice to Interested Persons

Notice of the proposed exemption will be provided to all interested persons within 15 days of the publication of the notice of proposed temporary five-year exemption in the **Federal Register**. The notice will be provided to all interested persons in the manner agreed upon by the applicant and the Department and will contain a copy of the notice of proposed exemption as published in the **Federal Register** and a supplemental statement, as required pursuant to 29 CFR 2570.43(a)(2). The supplemental statement will inform interested persons of their right to comment on and to request a hearing with respect to the pending exemption. All written comments and/or requests for a hearing must be received by the Department within forty-five days of the date of

[9] The auditor should use, among other methods, confirmations to individuals with amounts rolled over to determine whether such individuals were given an effective chance to opt-out or otherwise tried to unsuccessfully opt-out of the program.

publication of this proposed exemption in the **Federal Register**.

All comments will be made available to the public.

Warning: If you submit a comment, EBSA recommends that you include your name and other contact information in the body of your comment, but DO NOT submit information that you consider to be confidential, or otherwise protected (such as a Social Security number or an unlisted phone number) or confidential business information that you do not want publicly disclosed. All comments may be posted on the internet and can be retrieved by most internet search engines.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Proposed Five Year Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Employee Retirement Income Security Act of 1974, as amended (ERISA), and section 4975(c)(2) of the Internal Revenue Code of 1986, as amended (the Code), and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (76 FR 66637, 66644, October 27, 2011).[10]

If the proposed exemption is granted, the sanctions resulting from the application of Code section 4975, by reason of sections 4975(c)(1)(D) and (E) of the Code, shall not apply to the receipt of a Transfer Fee, as defined in Section III(i), by RCH in connection with the transfer of assets from an individual's Default IRA, as defined in Section III(h), to the individual's New Plan Account, as defined in Section III(a) (the Transfer), following the individual's nonresponse to two letters informing the individual that the assets will be transferred if he or she fails to contact RCH within the later of: Sixty days of the first letter; or thirty days of the second letter. Relief under this exemption is solely available for the payment of a Transfer Fee by a Default IRA to RCH in connection with the transfer of $5,000 or less from the Default IRA to a New Plan Account, pursuant to either a Default IRA Model Transfer, as defined in Section III(l) or a Conduit Model Transfer (as defined in Section III(k).

Section I. Conditions

(a) Any and all fees and compensation, direct or indirect, associated with the Program must be fully disclosed to, and approved by, a plan fiduciary that is independent of RCH (an independent plan fiduciary) in the applicable agreement. With respect to approval of a Transfer Fee, the approval must be given prior to the transfer from the plan to the Default IRA. The fees and compensation (direct or indirect) RCH receives in connection with the transfer under the Program of a Conduit Model Transfer, as defined in Section III(k), is limited to a Transfer Fee and communication fee paid by a Default IRA. All fees and expenses under the Program must be fully disclosed in participating plans' summary plan descriptions;

(b) RCH does not sell or market Plan or Plan participant-related data RCH accesses or obtains to third parties in connection with the Program, nor does RCH use the data for any purpose other than administration of the Program;

(c) RCH does not receive any fees or compensation, direct or indirect, from third parties other than asset-based sub-transfer agency fees paid to RCH from an IRA investment provider, where such IRA investment provider is selected by an independent plan fiduciary. The asset-based sub-transfer agency fee must be solely for shareholder services related to the investment options in which IRA assets are invested under the Program and may not exceed reasonable compensation as defined in Section 408(b)(2) of ERISA, Section 4975(d)(2) of the Code, and 29 CFR 2550.408c–2 of the Department's regulations. RCH may not receive any fees or compensation, direct or indirect, from third parties other than an asset-based, sub-transfer agency fee that is paid to RCH from an IRA investment provider that is selected by an independent plan fiduciary, solely for shareholder services related to the investment options in which IRA assets are invested under the RCH Program. Such selection must be made independent of influence, suggestion or assistance by RCH, and RCH may not in any way, directly or indirectly, act in a manner that affects the amount of sub-transfer agency fees it receives under the Program.

(d) RCH does not restrict or limit the ability of unrelated third parties to develop, market and/or maintain a locate-and-match process separate from RHC's process that facilitates the transfer of Default IRA assets or Eligible Mandatory Distribution Account assets;

(e) The disclosures described below in paragraphs (f) and (g) must be:

(1) Written in a manner calculated to be understood by the average intended recipient. To the extent reasonably possible, such disclosures must limit or eliminate technical jargon and long, complex sentences, and use clarifying examples and illustrations. No communication required by this exemption shall be made or written in a way that misleads, misinforms, or fails to properly inform the intended recipient; and

(2) sent to the last known address of the individual after RCH verifies the accuracy of the participant data (including the participant's and any beneficiary's social security number, first name, last name, middle name or initial, address, city, state, zip code, date of birth, and phone number);

[10] For purposes of this proposed exemption, references to the provisions of Title I of ERISA, unless otherwise specified, refer also to the corresponding provisions of the Code.

(f) *Transfers Involving RCH Default IRAs.* RCH will direct the transfer of assets from a Default IRA to a New Plan Account only after RCH furnishes the following notifications to the individual in the manner required by paragraph (e) above:

(1) Mandatory Distribution Letter. RCH must provide a ''Mandatory Distribution Letter'' to an individual who is eligible for mandatory distribution under section 401(a)(31)(B) of the Code prior to establishing a Default IRA for that individual. The Mandatory Distribution Letter is sent no later than the following business day after RCH receives the file from the plan sponsor indicating that the individual is eligible for mandatory distribution under section 401(a)(31)(B) of the Code, and must include:

(A) A description of the available Plan distribution options, including the independent Plan fiduciary's selection of the Default IRA;

(B) A notice that the individual has 30–90 days (as determined by the independent plan fiduciary) to contact RCH and specify a different distribution option before his or her account is transferred into the Default IRA;

(C) A description of how the Program works, including a description of all material Program features and a complete and accurate statement of all fees that are charged to accounts in the Program, as well as all compensation, direct or indirect, of any type received by RCH, related parties and participating record-keepers in connection with the Program;

(D) An explanation of distributions eligible for rollover treatment as required under section 402(f) of the Code;

(E) A statement that at any time the individual can direct RCH to transfer the balance into the ERISA-covered plan of his or her current employer or to another account;

(F) A statement that unless the individual specifies an alternative distribution option, the individual's plan balance will be transferred into a Default IRA;

(G) A notice that if the Locate and Match process, as defined in Section III(b), finds that the individual maintains another Plan account sponsored by his or her current employer, RCH will send the Consent Letter, described below, and seek the individual's consent to transfer assets from the Default IRA to the Plan of the individual's current employer; and

(H) A statement that the individual may opt out of the transfer by calling or writing RCH, and an explanation of how such individual can effectively opt out.

(2) Welcome Letter. RCH must furnish each individual a ''Welcome Letter'' immediately upon the transfer of assets to a Default IRA. The Welcome Letter is sent no later than the following business day after RCH receives an individual's assets in a Default IRA. The Welcome Letter must include:

(A) A notice that RCH opened an IRA on behalf of the individual;

(B) All relevant information regarding the Default IRA, including: Applicable account fees; the name of the investment fund into which the individual's assets were transferred; the fund's symbol; the total dollar amount of assets invested; the number of fund shares; and the fund share price;

(C) A trade confirmation;

(D) RCH's contact information, including toll-free numbers for the service center and on-line access instructions;

(E) A full and complete description of all fees charged to the Default IRA, and all compensation, direct or indirect, of any type, received by RCH, related parties and participating record-keepers in connection with administration of the Program;

(F) A notice that the individual may contact RCH and transfer his or her balance from the Default IRA to another account at any time before RCH locates and verifies the individual's account at the plan sponsored by his or her current employer;

(G) A statement that RCH will not transfer the Default IRA for at least 60 days from the date of the Welcome Letter. The notice shall further state that if the individual takes no action within the 60 days, and if the Locate and Match process finds that the individual maintains a New Plan Account, RCH will send the Consent Letter and seek the individual's consent to transfer the assets of the Default IRA to the plan of the individual's new employer. The notice will also state that if the individual fails to contact RCH within 30 days of receiving the Consent Letter, RCH will transfer the Default IRA balances to the Plan of the individual's current employer.

(3) Annual Statements. At least annually, RCH must furnish an ''Annual Statement'' to the individual which includes a description of:

(A) All fees the account will pay under the Program and a description of all the Program's material features, including a complete and accurate statement of all compensation, direct or indirect, of any type, received by RCH, related parties and participating record-keepers in connection with the Program;

(B) A statement that the individual may contact RCH and direct RCH to transfer the balance into the Plan of his or her current employer or another account if he or she contacts RCH before RCH locates the individual's account at their new employer plan; and

(C) A statement that if the Locate and Match process finds that the individual maintains another individual account plan at his or her current employer, RCH will send the Consent Letter and seek the individual's consent to transfer the assets of the Default IRA to the plan sponsored by the individual's current employer. The notice will also state that if the individual fails to contact RCH within 30 days of receiving the Consent Letter, RCH will transfer the Default IRA balances to the plan sponsored by the individual's current employer.

(4) Consent Letter. For transfers of assets from a Default IRA to the New Plan Account, no later than the following business day after verification through the Locate and Match Process that the individual has opened a New Plan Account, RCH must send the Consent Letter, which must include:

(A) A notification that the individual's Default IRA has been matched with the individual's New Plan Account;

(B) A request for the individual's consent to transfer the assets from the Default IRA to the New Plan Account. The Consent Letter will also state that if the individual fails to contact RCH within 30 days of receipt of the Consent Letter, RCH will transfer the Default IRA balances to the plan sponsored by the individual's current employer.

(C) A statement of all fees and other compensation, direct or indirect, of any type, associated with the Program and with the transfer of assets to the Plan sponsored by his or her current employer.

(g) *Other Transfers.* Assets will be transferred from an Eligible Mandatory Distribution Account to a RCH Default IRA and then to a New Plan Account, or from a non-RCH Default IRA to an RCH Default IRA and then to a New Plan Account, only after the following notifications are provided to the individual in the manner required by paragraph (e) above: (1) A Mandatory Distribution Letter that is sent when it is determined under the RCH Program that an individual on whose behalf a non-RCH Default IRA has been established, or an Eligible Mandatory Distribution Account has been maintained at a prior employer, has opened a New Plan Account at the individual's current employer. The Mandatory Distribution Letter will contain the information described in paragraph (f), as applicable, and will note that if the individual fails to

contact RCH within 60 days of the Consent Letter described below, the individual's account balance will be transferred to the plan of the individual's current employer through an RCH Safe Harbor IRA unless the individual opts out of the transfer;

(2) A Consent Letter is sent when the RCH Program determines that an individual on whose behalf a non-RCH Default IRA has been established, or on whose behalf an Eligible Mandatory Distribution Account is maintained at a prior employer, has opened a New Plan Account at the individual's current employer. The Consent Letter will fully state the fees and other compensation, direct or indirect, of any type, associated with the RCH Program, and will explain that if the individual fails to opt out of the RCH Program within 60 days of receiving the Consent Letter, the assets will be transferred to the New Plan Account.

(3) Another Consent Letter is sent if, after 30 days following the first Consent Letter, the participant has not contacted RCH with instructions to opt in or opt out of the RCH Program. The Consent Letter will explain that, unless the individual opts out of the RCH Program within 30 days of receiving the letter, RCH will direct the transfer of the assets to the New Plan Account;

(h) The Plan maintaining the New Plan Account and the Plan maintaining the Eligible Mandatory Distribution Account are each a qualified retirement plan as described under section 401(a) of the Code;

(i) The Plan maintaining the New Plan Account has authorized the transfer of assets from other qualified retirement accounts;

(j) Amounts transferred under the Program to the New Plan Account will be automatically invested according to the individual's current investment elections under the terms of the Plan or, if no such elections were made, under the qualified default investment alternative as defined under ERISA section 404(c)(5) and established under the terms of the Plan;

(k) The RCH Default does not incur any fees or charges, direct or indirect, after the Program identifies a match with between a New Plan Account, except for the Transfer Fee and communication fee;

(l) RCH submits to an annual audit, performed by a qualified independent auditor, as defined in Section III(j). The auditor must review a representative sample of transactions and related undertakings, sufficient for the auditor to make the following determinations:

(1) Whether the notices met the timing and content requirements of this exemption, and were written and delivered in a manner reasonably designed to ensure that affected individuals would both receive and understand the notices;

(2) Whether the asset transfers were conducted in accordance with this exemption and the applicable written agreement, and the New Plan Accounts, participants, and beneficiaries received all the assets they were due;

(3) Whether the fees and compensation, direct or indirect, of any type, received by RCH, related parties and participating record-keepers in connection with the Program are consistent with the fees authorized by appropriate Plan fiduciaries; were properly disclosed to the affected individuals in accordance with the terms of this exemption; and did not exceed reasonable compensation, as defined in Section 408(b)(2) of ERISA, Section 4975(d)(2) of the Code, and 29 CFR 2550.408c–2 of the Department's regulations;

(4) Whether individuals receiving Mandatory Distribution notices were effectively given the opportunity to opt-out by the use of a phone number that was operational and with a clearly available opt-out choice in the main menu; and

(5) Whether the conditions of this exemption have been met;

(m) The Auditor must complete the audit within 6 months following the 12-month period to which the audit relates, and the Auditor must submit a written report to the Office of Exemption Determinations within 30 days of completion detailing its findings, and the report will be part of the public record for this exemption. The written report must describe the Auditor's methodology in performing the Audit and must contain a detailed description of the Auditor's findings;

(n) RCH does not include exculpatory provisions in its contracts disclaiming or limiting RCH's liability in the event that the RCH Program results in an improper transfer from a Default IRA or Eligible Mandatory Distribution Account; and

(o) RCH does not provide investment advice, as described in ERISA section 3(21) or Code Section 4975(e)(3) and accompanying regulations, with respect to the assets held in a Default IRA or Eligible Mandatory Distribution Account;

(p) The Program queries on at least a monthly basis whether a participant with a New Plan Account in the Program has either a Default IRA or an Eligible Mandatory Distribution Account covered by the Program. If the Program identifies a match, and the affected individual does not respond in a timely manner to the required notifications, RCH will immediately direct the transfer of the assets of the Default IRA or Eligible Mandatory Distribution Account to the participant's New Plan Account following the Settlement Date, as defined in Section III(m). RCH does not have discretion under the RCH Program to affect the timing or amount of the transfer, other than to deduct the appropriate fees;

(q) All fees and expenses under the Program must be fully disclosed in participating plans' summary plan descriptions;

(r) RCH verifies the accuracy of all participant and beneficiary data, including address and identification information, when assets are first transferred to a Default IRA or Eligible Mandatory Distribution Account;

(s) RCH takes all prudent actions necessary to reasonably ensure that participant and beneficiary data are current and accurate, and that the appropriate participants and beneficiaries, in fact, receive all the required notices and disclosures, until the assets are transferred under the Program to a New Plan Account; and

(t) RCH may not receive a Transfer Fee in connection with a roll-in transaction to an ERISA-covered Plan sponsored or maintained by RCH.

Section II. Record-Keeping Requirements

(a) RCH maintains for 6 years the records necessary to enable the persons described below to determine whether the conditions of this exemption have been met, except that:

(1) A prohibited transaction will not be considered to have occurred if, solely because of circumstances beyond the control of RCH, the records are lost or destroyed before the 6-year period ends; and

(2) No party in interest other than RCH will be subject to the civil penalty that may be assessed under section 502(i) of the Act or to the taxes imposed by section 4975(a) and (b) of the Code, if the records are not maintained or are not available for examination as required below:

(b)(1) Except as provided in Section II(b)(2) and notwithstanding any provisions of section 504(a)(2) of the Act, the records referred to in Section II(a) are unconditionally available at their customary location for examination during normal business hours by:

(i) Any duly authorized employee or representative of the Department or the Internal Revenue Service;

(ii) Any individual or fiduciary of a Plan participating in the Program; and

(iii) None of the persons described in Section II(b)(l)(ii) shall be authorized to examine trade secrets of RCH, or commercial or financial information which is privileged or confidential.

Section III. Definitions

(a) The term ''New Plan Account'' means any account maintained by a Plan that has received contributions or experienced investment activity within the preceding three months and is held for the benefit of an individual that maintains active employment with the plan sponsor;

(b) The term ''Locate and Match'' means the technological process relied upon by RCH and participating record-keepers to identify multiple accounts maintained by the same individual.

(c) The term ''Eligible Mandatory Distribution Account'' means an account with assets that is eligible for mandatory distribution under section 401(a)(31) of the Code at the individual's prior employer plan;

(d) The term ''Plan'' means an individual account defined contribution plan that satisfies the automatic rollover rules under 29 CFR 2550.404a–2 or 3;

(e) The term ''Program'' means the RCH Auto Portability Program as it is described in this exemption and as it applies to Eligible Mandatory Distribution Accounts and Default IRAs, as defined in this section;

(f) The term, ''RCH'' means Retirement Clearinghouse LLC or any affiliates;

(g) The term ''record-keeper'' means record-keepers that are independent of RCH and any Affiliates of the record-keepers who elect to participate in the Program.

(h) The term ''Default IRA'' means an individual retirement account with assets that is described in Section 408(a) of the Code and established pursuant to, and satisfies the requirements of, Section 401(a)(31) of the Code and regulations at 29 CFR 2550.404a–2;

(i) The term ''Transfer Fee'' means the fee paid to RCH for processing the transfer of assets from the Default IRA or Eligible Mandatory Distribution Account to the Current Plan Participant Account.

(j) The term ''Independent Auditor'' means a person or entity with extensive knowledge of ERISA, the Code and the types of transactions described in this exemption, and who is capable of reviewing and analyzing the Program and the requirements of this exemption in a manner sufficient to perform the audit. The Independent Auditor may derive no more than 2 percent of its annual compensation from services provided directly or indirectly to RCH or any of its affiliates or related parties;

(k) In a ''Conduit Model Transfer,'' RCH first transfers an individual's assets from either an Eligible Mandatory Distribution Account or a non-RCH default IRA to an RCH default IRA, and then transfers the assets to a New Plan Account based upon the RCH Program's determination that the individual has opened a New Plan Account at the individual's current employer;

(l) In an ''RCH Default IRA Model Transfer,'' the plan transfers an individual's assets to an RCH Default IRA, and RCH transfers the assets to a New Plan Account based upon the RCH Program's determination that the individual has opened a New Plan Account at the individual's current employer;

(m) The term ''Settlement Date'' means the settlement date set forth in an applicable mutual fund's prospectus. In no case will the Settlement Date be later than three days after the date the relevant sell order is placed. RCH has no discretion regarding the timing of the Settlement Date.

(n) An ''affiliate'' of a person includes:

(1) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with the person;

(2) Any officer, director, employee, relative, or partner in any such person; and

(3) Any corporation or partnership of which such person is an officer, director, partner, or employee.

(o) The term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

Signed at Washington, DC, this 2nd day of November 2018.

Lyssa Hall,

Director, Office of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor.

[FR Doc. 2018–24377 Filed 11–6–18; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Employment and Training Administration

Post-Initial Determinations Regarding Eligibility To Apply for Trade Adjustment Assistance

In accordance with Sections 223 and 284 (19 U.S.C. 2273 and 2395) of the Trade Act of 1974 (19 U.S.C. 2271, *et seq.*) (''Act''), as amended, the Department of Labor herein presents Notice of Affirmative Determinations Regarding Application for Reconsideration, summaries of Negative Determinations Regarding Applications for Reconsideration, summaries of Revised Certifications of Eligibility, summaries of Revised Determinations (after Affirmative Determination Regarding Application for Reconsideration), summaries of Negative Determinations (after Affirmative Determination Regarding Application for Reconsideration), summaries of Revised Determinations (on remand from the Court of International Trade), and summaries of Negative Determinations (on remand from the Court of International Trade) regarding eligibility to apply for trade adjustment assistance under Chapter 2 of the Act (''TAA'') for workers by (TA–W) number issued during the period of *August 20, 2018 through September 14, 2018.* Post-initial determinations are issued after a petition has been certified or denied. A post-initial determination may revise a certification, or modify or affirm a negative determination.

Affirmative Determinations Regarding Applications for Reconsideration

The following Applications for Reconsideration have been received and granted. See 29 CFR 90.18(d).

The group of workers or other persons showing an interest in the proceedings may provide written submissions to show why the determination under reconsideration should or should not be modified. The submissions must be sent no later than ten days after publication in **Federal Register**. to the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue NW, Washington, DC 20210. See 29 CFR 90.18(f).

TA–W No.	Subject firm	Location
93,624	Georgia-Pacific Consumer Operations LLC	Camas, WA.

Summary of Statutory Requirement

(This Notice primarily follows the language of the Trade Act. In some places however, changes such as the inclusion of subheadings, a reorganization of language, or ''and,'' ''or,'' or other words are added for clarification.)

Section 222(a)—Workers of a Primary Firm

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for TAA, the group eligibility requirements under Section 222(a) of the Act (19 U.S.C. 2272(a)) must be met, as follows:

(1) The first criterion (set forth in Section 222(a)(1) of the Act, 19 U.S.C. 2272(a)(1)) is that a significant number or proportion of the workers in such workers' firm (or ''such firm'') have become totally or partially separated, or are threatened to become totally or partially separated;

AND (2(A) or 2(B) below)

(2) The second criterion (set forth in Section 222(a)(2) of the Act, 19 U.S.C. 2272(a)(2)) may be satisfied by either (A) the Increased Imports Path, or (B) the Shift in Production or Services to a Foreign Country Path/Acquisition of Articles or Services from a Foreign Country Path, as follows:

(A) Increased Imports Path

(i) the sales or production, or both, of such firm, have decreased absolutely;

AND (ii and iii below)

(ii) (I) imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased; OR

(II)(aa) imports of articles like or directly competitive with articles into which one or more component parts produced by such firm are directly incorporated, have increased; OR

(II)(bb) imports of articles like or directly competitive with articles which are produced directly using the services supplied by such firm, have increased; OR

(III) imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased;

AND

(iii) the increase in imports described in clause (ii) contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; OR

(B) Shift in Production or Services to a Foreign Country Path OR Acquisition of Articles or Services From a Foreign Country Path

(i)(I) there has been a shift by such workers' firm to a foreign country in the production of articles or the supply of services like or directly competitive with articles which are produced or services which are supplied by such firm; OR

(II) such workers' firm has acquired from a foreign country articles or services that are like or directly competitive with articles which are produced or services which are supplied by such firm;

AND

(ii) the shift described in clause (i)(I) or the acquisition of articles or services described in clause (i)(II) contributed importantly to such workers' separation or threat of separation.

Section 222(b)—Adversely Affected Secondary Workers

In order for an affirmative determination to be made for adversely affected secondary workers of a firm and a certification issued regarding eligibility to apply for TAA, the group eligibility requirements of Section 222(b) of the Act (19 U.S.C. 2272(b)) must be met, as follows:

(1) a significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

AND

(2) the workers' firm is a supplier or downstream producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act (19 U.S.C. 2272(a)), and such supply or production is related to the article or service that was the basis for such certification (as defined in subsection 222(c)(3) and (4) of the Act (19 U.S.C. 2272(c)(3) and (4));

AND

(3) either—

(A) the workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; OR

(B) a loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation determined under paragraph (1).

Section 222(e)—Firms Identified by the International Trade Commission

In order for an affirmative determination to be made for adversely affected workers in firms identified by the International Trade Commission and a certification issued regarding eligibility to apply for TAA, the group eligibility requirements of Section 222(e) of the Act (19 U.S.C. 2272(e)) must be met, by following criteria (1), (2), and (3) as follows:

(1) the workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in—

(A) an affirmative determination of serious injury or threat thereof under section 202(b)(1) of the Act (19 U.S.C. 2252(b)(1)); OR

(B) an affirmative determination of market disruption or threat thereof under section 421(b)(1) of the Act (19 U.S.C. 2436(b)(1)); OR

(C) an affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A));

AND

(2) the petition is filed during the 1-year period beginning on the date on which—

(A) a summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) of the Trade Act (19 U.S.C. 2252(f)(1)) with respect to the affirmative determination described in paragraph (1)(A) is published in the **Federal Register** under section 202(f)(3) (19 U.S.C. 2252(f)(3)); OR

(B) notice of an affirmative determination described in subparagraph (B) or (C) of paragraph (1) is published in the **Federal Register**;

AND

(3) the workers have become totally or partially separated from the workers' firm within—

(A) the 1-year period described in paragraph (2); OR

(B) notwithstanding section 223(b) of the Act (19 U.S.C. 2273(b)), the 1-year period preceding the 1-year period described in paragraph (2).

Revised Certifications of Eligibility

The following revised certifications of eligibility to apply for TAA have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination, and the reason(s) for the determination.

The following revisions have been issued.

TA–W No.	Subject firm	Location	Impact date	Reason(s)
93,924	Bombardier Transportation (Holdings) USA, Inc.	Pittsburgh, PA	6/26/2017	Worker Group Clarification.
93,968	Sigma-Aldrich Co. LLC, USA	St. Louis, MO	7/10/2017	Wages Reported Under Different FEIN Number.

Signed at Washington, DC, on September 18, 2018.

Hope D. Kinglock,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2018–24292 Filed 11–6–18; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Trade Adjustment Assistance

In accordance with the Section 223 (19 U.S.C. 2273) of the Trade Act of 1974 (19 U.S.C. 2271, *et seq.*) (''Act''), as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance under Chapter 2 of the Act (''TAA'') for workers by (TA–W) number issued during the period of *August 20, 2018 through September 14, 2018.* (This Notice primarily follows the language of the Trade Act. In some places however, changes such as the inclusion of subheadings, a reorganization of language, or ''and,'' ''or,'' or other words are added for clarification.)

Section 222(a)—Workers of a Primary Firm

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for TAA, the group eligibility requirements under Section 222(a) of the Act (19 U.S.C. 2272(a)) must be met, as follows:

(1) The first criterion (set forth in Section 222(a)(1) of the Act, 19 U.S.C. 2272(a)(1)) is that a significant number or proportion of the workers in such workers' firm (or ''such firm'') have become totally or partially separated, or are threatened to become totally or partially separated;

AND (2(A) or 2(B) below)

(2) The second criterion (set forth in Section 222(a)(2) of the Act, 19 U.S.C. 2272(a)(2)) may be satisfied by either (A) the Increased Imports Path, or (B) the Shift in Production or Services to a Foreign Country Path/Acquisition of Articles or Services from a Foreign Country Path, as follows:

(A) Increased Imports Path:

(i) The sales or production, or both, of such firm, have decreased absolutely;

AND (ii and iii below)

(ii)(I) imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased; OR

(II)(aa) imports of articles like or directly competitive with articles into which one or more component parts produced by such firm are directly incorporated, have increased; OR

(II)(bb) imports of articles like or directly competitive with articles which are produced directly using the services supplied by such firm, have increased; OR

(III) imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased;

AND

(iii) the increase in imports described in clause (ii) contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; OR

(B) Shift in Production or Services to a Foreign Country Path OR Acquisition of Articles or Services from a Foreign Country Path:

(i)(I) There has been a shift by such workers' firm to a foreign country in the production of articles or the supply of services like or directly competitive with articles which are produced or services which are supplied by such firm; OR

(II) such workers' firm has acquired from a foreign country articles or services that are like or directly competitive with articles which are produced or services which are supplied by such firm;

AND

(ii) the shift described in clause (i)(I) or the acquisition of articles or services described in clause (i)(II) contributed importantly to such workers' separation or threat of separation.

Section 222(b)—Adversely Affected Secondary Workers

In order for an affirmative determination to be made for adversely affected secondary workers of a firm and a certification issued regarding eligibility to apply for TAA, the group eligibility requirements of Section 222(b) of the Act (19 U.S.C. 2272(b)) must be met, as follows:

(1) A significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

AND

(2) the workers' firm is a supplier or downstream producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act (19 U.S.C. 2272(a)), and such supply or production is related to the article or service that was the basis for such certification (as defined in subsection 222(c)(3) and (4) of the Act (19 U.S.C. 2272(c)(3) and (4));

AND

(3) either—

(A) the workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; OR

(B) a loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation determined under paragraph (1).

Section 222(e)—Firms Identified by the International Trade Commission

In order for an affirmative determination to be made for adversely affected workers in firms identified by the International Trade Commission and a certification issued regarding eligibility to apply for TAA, the group eligibility requirements of Section 222(e) of the Act (19 U.S.C. 2272(e)) must be met, by following criteria (1), (2), and (3) as follows:

(1) The workers' firm is publicly identified by name by the International Trade Commission as a member of a

domestic industry in an investigation resulting in—

(A) an affirmative determination of serious injury or threat thereof under section 202(b)(1) of the Act (19 U.S.C. 2252(b)(1)); OR

(B) an affirmative determination of market disruption or threat thereof under section 421(b)(1) of the Act (19 U.S.C. 2436(b)(1)); OR

(C) an affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A)); AND

(2) the petition is filed during the 1-year period beginning on the date on which—

(A) a summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) of the Trade Act (19 U.S.C. 2252(f)(1)) with respect to the affirmative determination described in paragraph (1)(A) is published in the **Federal Register** under section 202(f)(3) (19 U.S.C. 2252(f)(3)); OR

(B) notice of an affirmative determination described in subparagraph (B) or (C) of paragraph (1) is published in the **Federal Register**; AND

(3) the workers have become totally or partially separated from the workers' firm within—

(A) the 1-year period described in paragraph (2); OR

(B) notwithstanding section 223(b) of the Act (19 U.S.C. 2273(b)), the 1-year period preceding the 1-year period described in paragraph (2).

Affirmative Determinations for Trade Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (Increased Imports Path) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
93,631	Astoria Warehousing, Peter Pan Seafoods, Icicle Seafoods, Total Employment and Management (TEAM).	Astoria, OR	March 12, 2017.
93,821	Columbia River Logistics, Belgravia Investments, Galt Foundation, Integrity Staffing, etc.	Vancouver, WA	May 17, 2017.
93,929	Sem-Com Company Inc., Sales Office	Toledo, OH	June 27, 2017.
93,953	Siteline Cabinetry, LLC, The Corsi Group, Inc., WorkSmart Systems, Inc.	Keysville, VA	July 5, 2017.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (Shift in Production or Services to a Foreign Country Path or Acquisition of Articles or Services from a Foreign Country Path) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
93,645	Telephonics Corporation, Griffon Corporation, Nationwide Technical Resources Corporation.	Huntington, NY	March 14, 2017.
93,645A	Telephonics Corporation, Griffon Corporation, Omnicon, FASTXchange Inc.	Farmingdale, NY	March 14, 2017.
93,733	ADP, LLC	Clackamas, OR	April 17, 2017.
93,872	GE Drives and Controls, Inc., General Electric, Power GE Automation & Controls) Division.	Salem, VA	June 6, 2017.
93,921	Putnam Investments, LLC, Digital Technology, Great West Lifeco U.S., Accenture, Alexander Group, etc.	Boston, MA	June 18, 2017.
93,924	Bombardier Transportation (Holdings) USA, Inc., Americas Region, Rolling Stock Equipment, Adecco, Oxford Solutions, etc.	Pittsburgh, PA	June 26, 2017.
93,937	Johnson Controls, Inc., Finance, Building Technologies & Solutions, Johnson Controls International.	Indianapolis, IN	June 28, 2017.
93,938	Madison Polymeric Engineering, Inc., Hamilton Connection, Reitman Personnel.	Branford, CT	June 28, 2017.
93,940	Rexam Beverage Can Americas, Birmingham Plant, Ball Corporation, Manpower, Coretek.	Birmingham, AL	June 28, 2017.
93,944	Wells Fargo Servicing Customer Account Management (CAM), Wells Fargo & Company, Wells Fargo Consumer Lending Group (CLG).	Frederick, MD	June 29, 2017.
93,949	The Collected Group, Fourth Floor/Career Group	Vernon, CA	July 3, 2017.
93,950	Cordstrap USA Inc., North America, Cordstrap B.V., Halpin Personnel, Personnel Resources, etc.	Sturtevant, WI	July 3, 2017.
93,955	AG Industries LLC, Filtration Group, Westaff	St. Louis, MO	July 5, 2017.
93,959	International Business Machines (IBM), HWS System US, Global Technical Services Division.	Atlanta, GA	July 6, 2017.
93,959A	International Business Machines (IBM), HWS System US, Global Technical Services Division.	Tucson, AZ	July 6, 2017.
93,959B	International Business Machines (IBM), HWS System US, Global Technical Services Division.	Raleigh, NC	July 6, 2017.
93,967	KeyBank NA, KeyCorp, Key Technology Operations, Network Operations Center, etc.	Cleveland, OH	July 11, 2017.
93,967A	KeyBank NA, KeyCorp, Key Technology Operations, Network Operations Center, etc.	Brooklyn, OH	July 11, 2017.
93,967B	KeyBank NA, KeyCorp, Key Technology Operations, Network Operations Center, etc.	Buffalo, NY	July 11, 2017.

TA–W No.	Subject firm	Location	Impact date
93,967C	KeyBank NA, KeyCorp, Key Technology Operations, Network Operations Center, etc.	Albany, NY	July 11, 2017.
93,967D	KeyBank NA, KeyCorp, Key Technology Operations, Network Operations Center, etc.	Tacoma, WA	July 11, 2017.
93,967E	KeyBank NA, KeyCorp, Key Technology Operations, Network Operations Center, etc.	Solon, OH	July 11, 2017.
93,988	Kraco Enterprises LLC	Compton, CA	July 17, 2017.
93,995	MedPlast West Berlin, Inc., Medplast, LLC, MedPlast Engineered Products, Inc., Staffing Network.	West Berlin, NJ	July 19, 2017.
94,003	Noxell Corporation, Wella Corporation, HFC Prestige International US, Coty, Gus Perdikakis Associates, etc.	Blue Ash, OH	July 23, 2017.
94,010	GCL Solar Materials US I, LLC, Beacon Hill Financial, Cavalier IT	St. Charles, MO	July 25, 2017.
94,012	Aspen Insurance U.S. Services Inc	Rocky Hill, CT	July 13, 2017.
94,012A	Aspen Insurance U.S. Services Inc	New York, NY	July 13, 2017.
94,012B	Aspen Insurance U.S. Services Inc	Boston, MA	July 13, 2017.
94,012C	Aspen Insurance U.S. Services Inc	Atlanta, GA	July 13, 2017.
94,012D	Aspen Insurance U.S. Services Inc	Miami, FL	July 13, 2017.
94,015	International Automotive Components, IAC Group, Strasburg LLC Division.	Strasburg, VA	June 28, 2017.
94,029	Citicorp Credit Services, Inc. (USA), Citibank, N.A., Citicorp, Citigroup, Inc.	Urbandale, IA	July 30, 2017.
94,036	Pittsburgh Glass Works, LLC, Vitro, S.A.B., Vitro, Accounts Payable and Accounts Receivable, etc.	Pittsburgh, PA	July 26, 2017.
94,042	Honeywell Smithfield (RI13), Honeywell International, Inc., Safety and Productivity Solutions Division.	Smithfield, RI	August 3, 2017.
94,052	General Electric Company, GE Power-Gas Power Systems Division	Schenectady, NY	August 8, 2017.
94,057	Great Lakes Polymer Technologies LLC, Bridon Cordage, Express Employment Professionals, etc.	Albert Lea, MN	August 10, 2017.
94,068	DIRECTV Latin America, LLC, AT&T Inc., Programming Operations Division.	El Segundo, CA	August 20, 2017.
94,093	Kaiam Corporation, Professional Employer Organization (PEO) ADP	Newark, CA	August 24, 2017.
94,096	Stack-On Products, Alpha Guardian	Wauconda, IL	August 27, 2017.
94,101	FLSmidth Inc., Cement, FLSmidth, Peak Technical Staffing USA, Allied Personnel Services.	Bethlehem, PA	August 29, 2017.

The following certifications have been issued. The requirements of Section 222(e) (firms identified by the International Trade Commission) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
93,823	SSAB Minnesota, Inc., SSAB Enterprises, LLC, Aerotek, Volt Workforce Solutions.	Roseville, MN	January 26, 2016.

Negative Determinations for Worker Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for TAA have not been met for the reasons specified.

The investigation revealed that the requirements of Trade Act section 222 (a)(1) and (b)(1) (significant worker total/partial separation or threat of total/partial separation), or (e) (firms identified by the International Trade Commission), have not been met.

TA–W No.	Subject firm	Location	Impact date
93,936	GSK Consumer Healthcare, Inc., GlaxoSmithKline Consumer Healthcare Holdings (US), Randstad, Adecco, etc.	Lincoln, NE..	

The investigation revealed that the criteria under paragraphs(a)(2)(A) (increased imports), (a)(2)(B) (shift in production or services to a foreign country or acquisition of articles or services from a foreign country), (b)(2) (supplier to a firm whose workers are certified eligible to apply for TAA or downstream producer to a firm whose workers are certified eligible to apply for TAA), and (e) (International Trade Commission) of section 222 have not been met.

TA–W No.	Subject firm	Location	Impact date
93,532	StandardAero Business Aviation Services, LLC, LAX Strategic Business Unit, Aviation Personnel.	Los Angeles, CA.	
93,773	Jeffboat LLC	Jeffersonville, IN.	

TA–W No.	Subject firm	Location	Impact date
93,781	Philips North America LLC, Philips Electronics North America Corporation, etc.	Andover, MA.	
93,781A	Philips North America LLC, Philips Electronics North America Corporation, etc.	Bothell, WA.	
93,884	Conduent Commercial Solutions, LLC, Conduent Business Services, LLC.	Raleigh, NC.	
93,884A	Conduent Commercial Solutions, LLC, Conduent Business Services, LLC.	Tallahassee, FL.	
93,884B	Conduent State Healthcare, LLC, Conduent Business Services, LLC	Richmond, VA.	
93,884C	Conduent Human Resources Services, LLC, Conduent Business Services, LLC.	Chesapeake, VA.	
93,884D	Conduent Credit Balance Solutions, LLC, Communications Business Unit, Conduent Business Services, LLC.	Hunt Valley, MD.	
93,902	Sutherland Healthcare Solutions Inc., Syracuse NY Facility, Sutherland Healthcare Solutions Private Ltd.	Syracuse, NY.	
93,930	Ariens Company	Auburn, NE.	
93,943	U.S. Cocoa Mat, LLC, Carolina Royal Holdings, LP	St. George, SC.	
93,974	Concord Litho Group, Inc., Masis Staffing Solutions, Ultimate Staffing Services, etc.	Concord, NH.	

Determinations Terminating Investigations of Petitions for Trade Adjustment Assistance

After notice of the petitions was published in the **Federal Register** and on the Department's website, as required by Section 221 of the Act (19 U.S.C. 2271), the Department initiated investigations of these petitions.

The following determinations terminating investigations were issued because the petitioner has requested that the petition be withdrawn.

TA–W No.	Subject firm	Location	Impact date
93,618	AES Dayton Power Light, Human Resources, Accounting, and Safety Divisions, DP&L.	Dayton, OH.	
93,654	AES Ohio Generation (DP&L), JMSS Division	Aberdeen, OH.	
93,654A	AES Ohio Generation (DP&L), KEGS Division	Manchester, OH.	
93,654B	AES Ohio Generation (DP&L), Training Center	Manchester, OH.	
93,654C	AES Ohio Generation (DP&L), Hutchings Station	Miamisburg, OH.	

The following determinations terminating investigations were issued because the petitioning group of workers is covered by an earlier petition that is the subject of an ongoing investigation for which a determination has not yet been issued.

TA–W No.	Subject firm	Location	Impact date
93,638	Tech Mahindra Americas, Inc	South Plainfield, NJ.	
93,722	Tech Mahindra Americas, Inc	Alpharetta, GA.	
93,761	Tech Mahindra Americas, Inc	Plano, TX.	

I hereby certify that the aforementioned determinations were issued during the period of *August 20, 2018 through September 14, 2018.* These determinations are available on the Department's website *https://www.doleta.gov/tradeact/taa/taa_search_form.cfm* under the searchable listing determinations or by calling the Office of Trade Adjustment Assistance toll free at 888–365–6822.

Signed at Washington, DC, on September 18, 2018.

Hope D. Kinglock,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2018–24290 Filed 11–6–18; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Federal-State Unemployment Compensation Program: Certifications for 2018 Under the Federal Unemployment Tax Act

AGENCY: Employment and Training Administration, Department of Labor.

ACTION: Notice.

SUMMARY: The Secretary of Labor signed the annual certifications under the Federal Unemployment Tax Act, thereby enabling employers who make contributions to state unemployment funds to obtain certain credits against their liability for the federal unemployment tax. By letter, the certifications were transmitted to the Secretary of the Treasury. The letter and certifications are printed below.

Signed in Washington, DC, on October 31, 2018.

Molly E. Conway,

Acting Assistant Secretary, Employment and Training Administration.

The Honorable Steven T. Mnuchin
Secretary of the Treasury
Department of the Treasury
1500 Pennsylvania Avenue, N.W.
Washington, DC 20220

Dear Secretary Mnuchin:

Transmitted herewith are an original and one copy of the certifications of the states and their unemployment compensation laws for the 12-month period ending on October 31, 2018. One certification is required with

respect to the normal federal unemployment tax credit by Section 3304 of the Internal Revenue Code of 1986 (IRC), and the other certification is required with respect to the additional tax credit by Section 3303 of the IRC. Both certifications list all 53 jurisdictions.

Sincerely,

R. Alexander Acosta

Enclosures

UNITED STATES DEPARTMENT OF LABOR

OFFICE OF THE SECRETARY

WASHINGTON, D.C.

CERTIFICATION OF STATES TO THE SECRETARY OF THE TREASURY PURSUANT TO SECTION 3304(c) OF THE INTERNAL REVENUE CODE OF 1986

In accordance with the provisions of Section 3304(c) of the Internal Revenue Code of 1986 (26 U.S.C. 3304(c)), I hereby certify the following named states to the Secretary of the Treasury for the 12-month period ending on October 31, 2018, in regard to the unemployment compensation laws of those states, which heretofore have been approved under the Federal Unemployment Tax Act:

Alabama
Alaska
Arizona
Arkansas
California
Colorado
Connecticut
Delaware
District of Columbia
Florida
Georgia
Hawaii
Idaho
Illinois
Indiana
Iowa
Kansas
Kentucky
Louisiana
Maine
Maryland
Massachusetts
Michigan
Minnesota
Mississippi
Missouri
Montana
Nebraska
Nevada
New Hampshire
New Jersey
New Mexico
New York
North Carolina
North Dakota
Ohio
Oklahoma
Oregon
Pennsylvania
Puerto Rico
Rhode Island
South Carolina
South Dakota
Tennessee
Texas
Utah
Vermont
Virginia
Virgin Islands
Washington
West Virginia
Wisconsin
Wyoming

This certification is for the maximum normal credit allowable under Section 3302(a) of the Code.

Signed at Washington, D.C., on October 31, 2018.

R. Alexander Acosta

UNITED STATES DEPARTMENT OF LABOR

OFFICE OF THE SECRETARY

WASHINGTON, D.C.

CERTIFICATION OF STATE UNEMPLOYMENT COMPENSATION LAWS TO THE SECRETARY OF THE TREASURY PURSUANT TO SECTION 3303(b)(1) OF THE INTERNAL REVENUE CODE OF 1986

In accordance with the provisions of paragraph (1) of Section 3303(b) of the Internal Revenue Code of 1986 (26 U.S.C. 3303(b)(1)), I hereby certify the unemployment compensation laws of the following named states, which heretofore have been certified pursuant to paragraph (3) of Section 3303(b) of the Code, to the Secretary of the Treasury for the 12-month period ending on October 31, 2018:

Alabama
Alaska
Arizona
Arkansas
California
Colorado
Connecticut
Delaware
District of Columbia
Florida
Georgia
Hawaii
Idaho
Illinois
Indiana
Iowa
Kansas
Kentucky
Louisiana
Maine
Maryland
Massachusetts
Michigan
Minnesota
Mississippi
Missouri
Montana
Nebraska
Nevada
New Hampshire
New Jersey
New Mexico
New York
North Carolina
North Dakota
Ohio
Oklahoma
Oregon
Pennsylvania
Puerto Rico
Rhode Island
South Carolina
South Dakota
Tennessee
Texas
Utah
Vermont
Virginia
Virgin Islands
Washington
West Virginia
Wisconsin
Wyoming

This certification is for the maximum additional credit allowable under Section 3302(b) of the Code, subject to the limitations of Section 3302(c) of the Code.

Signed at Washington, D.C., on October 31, 2018.

R. Alexander Acosta

[FR Doc. 2018–24289 Filed 11–6–18; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221 (a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, no later than November 19, 2018.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment

Assistance, at the address shown below, not later than November 19, 2018.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue NW, Washington, DC 20210.

Signed at Washington, DC, on September 18, 2018.

Hope D. Kinglock,

Certifying Officer, Office of Trade Adjustment Assistance.

Appendix

69 TAA PETITIONS INSTITUTED BETWEEN 8/20/18 AND 9/14/18

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
94065	Barnett Outdoors (State/One-Stop)	Tarpon Springs, FL	08/20/18	08/17/18
94066	IBM (State/One-Stop)	Atlanta, CT	08/20/18	08/17/18
94067	Pacific Coast Title Company (Workers)	Orange, CA	08/20/18	08/17/18
94068	DIRECTV Latin America, LLC (State/One-Stop).	El Segundo, CA	08/21/18	08/20/18
94069	Oregon Canadian Forest Products (State/One-Stop).	North Plains, OR	08/21/18	08/20/18
94070	Learjet, Inc. (State/One-Stop)	Wichita, KS	08/22/18	08/21/18
94071	Prestolite Electric Incorporated (Company)	Arcade, NY	08/22/18	08/21/18
94072	R & M Sea Level Marine LLC (State/One-Stop).	Hood River, OR	08/22/18	08/21/18
94073	REG (State/One-Stop)	Ralston, IA	08/22/18	08/21/18
94074	REG (State/One-Stop)	Mason City, IA	08/22/18	08/21/18
94075	REG (State/One-Stop)	Newton, IA	08/22/18	08/21/18
94076	AG Processing Inc. a Cooperative (State/One-Stop).	Algona, IA	08/23/18	08/22/18
94077	AG Processing Inc. a Cooperative (State/One-Stop).	Sergeant Bluff, IA	08/23/18	08/22/18
94078	Cargill (State/One-Stop)	Iowa Falls, IA	08/23/18	08/22/18
94079	ECi Software Solutions, Inc. (State/One-Stop)	Bloomington, MN	08/23/18	08/22/18
94080	Ernst & Young LLP (State/One-Stop)	Secaucus, NJ	08/23/18	08/22/18
94081	Finastra USA, Corporation (State/One-Stop)	Burlington, MA	08/23/18	08/22/18
94082	Health Care Service Corporation (HCSC) (State/One-Stop).	Chicago, IL	08/23/18	08/22/18
94083	Hologic, Inc. (State/One-Stop)	Hicksville, NY	08/23/18	08/22/18
94084	Informa (Company)	Westborough, MA	08/23/18	08/22/18
94085	JW Aluminum Co. (State/One-Stop)	Russellville, AR	08/23/18	08/22/18
94086	Micron Technology (State/One-Stop)	Boise, ID	08/23/18	08/22/18
94087	Royal Caribbean Customer Contact Center (Workers).	Springfield, OR	08/23/18	08/22/18
94088	W2Fuel Headquarters (State/One-Stop)	Crawfordsville, IA	08/23/18	08/22/18
94089	Western Dubuque Biodiesel (State/One-Stop)	Farley, IA	08/23/18	08/22/18
94090	Granges Americas, Inc. (State/One-Stop)	Newport, AR	08/24/18	08/24/18
94091	Western Iowa Energy, LLC (State/One-Stop)	Wall Lake, IA	08/24/18	08/23/18
94092	IBM (Aerotek Inc.) (State/One-Stop)	Hillsboro, OR	08/27/18	08/24/18
94093	Kaiam Corporation (State/One-Stop)	Newark, CA	08/27/18	08/24/18
94094	La Quinta Inns & Suites (State/One-Stop)	Irving, TX	08/27/18	08/24/18
94095	CDK Global, LLC. (State/One-Stop)	Hoffman Estates, IL	08/28/18	08/27/18
94096	Stack-On Products (Company)	Wauconda, IL	08/28/18	08/27/18
94097	Apollo Medical PC (State/One-Stop)	Brooklyn, NY	08/29/18	08/28/18
94098	Catepillar Inc—Randstad Leasing (State/One-Stop).	Dyersburg, TN	08/29/18	08/28/18
94099	Jacobs CH2M (State/One-Stop)	Corvallis, OR	08/29/18	08/28/18
94100	Clockwork Acquisition II, Inc. (State/One-Stop).	Tempe, AZ	08/29/18	08/28/18
94101	FLSmidth Inc. (Workers)	Bethlehem, PA	08/30/18	08/29/18
94102	HP, Inc. (State/One-Stop)	Ft. Collins, CO	08/30/18	08/28/18
94103	Nokia of America Corporation (State/One-Stop).	Murray Hill, NJ	08/30/18	08/29/18
94104	Orchard Supply Hardware (1020 SE 10th Avenue location) (State/One-Stop).	Portland, OR	08/30/18	08/29/18
94105	GE Inspection Technologies, LP (State/One-Stop).	Lewistown, PA	08/31/18	08/30/18
94106	Nokia of America Corporation (State/One-Stop).	Dublin, OH	08/31/18	08/30/18
94107	Fujitsu Network (State/One-Stop)	Richardson, TX	09/05/18	09/04/18
94108	Intel (Infitech, Inc) (State/One-Stop)	Hillsboro, OR	09/05/18	09/04/18
94109	Ricoh USA (State/One-Stop)	Houston, TX	09/05/18	07/25/18
94110	Atos IT Solutions & Services (State/One-Stop).	Irving, TX	09/06/18	09/05/18
94111	DEX YP or DEX Media (State/One-Stop)	DFW Airport, TX	09/06/18	09/04/18
94112	Caterpillar Inc. (Company)	Joliet, IL	09/07/18	09/06/18

69 TAA PETITIONS INSTITUTED BETWEEN 8/20/18 AND 9/14/18—Continued

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
94113	CenseoHealth, LLC/Signify Health (State/One-Stop).	Herndon, VA	09/07/18	09/04/18
94114	Famma Group Inc. (State/One-Stop)	Los Angeles, CA	09/07/18	09/06/18
94115	ITT Cannon (State/One-Stop)	Irvine, CA	09/07/18	09/06/18
94116	Williamson-Dickie Manufacturing Company dba VF Workwear (State/One-Stop).	Uvalde, TX	09/07/18	09/05/18
94117	ArcelorMittal Plate LLC—Conshohocken Division (Union).	Conshohocken, PA	09/11/18	09/10/18
94118	Ciena Corporation (State/One-Stop)	Spokane Valley, WA	09/11/18	09/10/18
94119	Crystal Vision (Workers)	Irving, TX	09/11/18	09/10/18
94120	TE Connectivity (Company)	Middletown, PA	09/11/18	09/06/18
94121	Sykes Enterprises Inc. (State/One-Stop)	Milton Freewater, OR	09/12/18	09/11/18
94122	Teachers Insurance Annuity Association (State/One-Stop).	Denver, CO	09/12/18	09/11/18
94123	SimplexGrinnell (a subsidiary of Johnson Controls) (State/One-Stop).	Westminister, MA	09/12/18	09/05/18
94124	Byer California (State/One-Stop)	Los Angeles, CA	09/13/18	09/11/18
94125	Static Control Components Inc. (Workers)	Sanford, NC	09/13/18	09/12/18
94126	The Anthem Companies Inc. (State/One-Stop).	Norfolk, VA	09/14/18	09/13/18
94127	Deluxe Entertainment Services Group (State/One-Stop).	Northvale, NJ	09/14/18	09/13/18
94128	Estee Lauder Companies (Workers)	New York, NY	09/14/18	09/10/18
94129	MBC Ventures (Company)	Baltimore, MD	09/14/18	09/14/18
94130	Nortek Global HVAC (Company)	Mercer, PA	09/14/18	09/13/18
94131	Quad Graphics Hazleton (Workers)	Hazle Township, PA	09/14/18	09/04/18
94132	REC Solar Grade Silicon LLC (State/One-Stop).	Moses Lake, WA	09/14/18	09/07/18
94133	Schmidt's™ Deodorant Company, LLC. (State/One-Stop).	Portland, OR	09/14/18	09/13/18

[FR Doc. 2018–24291 Filed 11–6–18; 8:45 am]

BILLING CODE 4510–FN–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (18–088)]

Notice of Intent To Grant Partially Exclusive Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant partially exclusive patent license.

SUMMARY: NASA hereby gives notice of its intent to grant a partially exclusive patent license in the United States to practice the inventions described and claimed in U.S. Patent No. 7,655,595 for an invention entitled ''Sol-Gel Based Oxidation Catalyst And Coating System Using Same,'' which issued on February 2, 2010 (NASA Case Number LAR–17154–1); U.S. Patent No. 7,781,366 for an invention entitled ''Sol-Gel Based Oxidation Catalyst And Coating System Using Same,'' which issued on August 24, 2010 (NASA Case Number LAR–17154–2); U.S. Patent No. 6,753,293 for an invention entitled ''Process For Coating Substrates With Catalytic Materials,'' which was issued on June 22, 2004 (NASA Case Number LAR–15851–1–CU); U.S. Patent No. 7,390,768 for an invention entitled ''Stabilized Tin-Oxide-Based Oxidation/Reduction Catalysts'' which issued on June 24, 2008 (NASA Case Number LAR–16307–1–SB); U.S. Patent No. 7,985,709 for an invention entitled ''Methodology For The Effective Stabilization Of Tin-Oxide-Based Oxidation/Reduction Catalysts'' which was issued on July 26, 2011 (NASA Case Number LAR–16307–2); U.S. Patent No. 7,371,358 for an invention entitled ''Catalyst For Treatment And Control Of Post-Combustion Emissions'' which was issued on May 13, 2008 (NASA Case Number LAR–16001–1); U.S. Patent No. 9,044,743 for an invention entitled ''Catalyst For Decomposition Of Nitrogen Oxides'' which issued on June 2, 2015 (NASA Case Number LAR–16308–2); and U.S. Patent No. 7,318,915 for an invention entitled ''Oxidation-Reduction Catalyst And Its Process Of Use'' which was issued on January 15, 2008 (NASA Case Number LAR–16390–1), to Sally R, a corporation of the Country of Sweden, having its principal place of business at Hasslogatan 20 Vasteras, Vastmanland Sweden 72131. The fields of use may be limited to Heating Ventilation and Air Conditioning and/or similar fields of use thereto.

DATES: The prospective partially exclusive patent license may be granted unless NASA receives written objections, including evidence and argument, no later than November 23, 2018 that establish that the grant of the license would not be consistent with the requirements regarding the licensing of federally owned inventions as set forth in the Bayh-Dohl Act and implementing regulations. Competing applications completed and received by NASA no later than November 23, 2018 will also be treated as objections to the grant of the contemplated partially exclusive patent license. Objections submitted in response to this notice will not be made available to the public for inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act.

ADDRESSES: Objections relating to the prospective license may be submitted to Patent Counsel, Office of Chief Counsel, NASA Langley Research Center, MS 30, Hampton, Virginia 23681. Phone (757) 864–3221. Facsimile (757) 864–9190.

FOR FURTHER INFORMATION CONTACT: Jonathan B. Soike, Patent Attorney, Office of Chief Counsel, NASA Langley Research Center, MS 30, Hampton,

Virginia 23681. Phone (757) 864–7863. Facsimile (757) 864–9190.

SUPPLEMENTARY INFORMATION: This notice of intent to grant a partially exclusive patent license is issued in accordance with 35 U.S.C. 209(e) and 37 CFR 404.7(a)(1)(i). The patent rights in these inventions have been assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The prospective partially exclusive patent license will comply with the requirements of 35 U.S.C. 209 and 37 CFR 404.7. Information about other NASA inventions available for licensing can be found online at *http://technology.nasa.gov.*

Mark Dvorscak,

Agency Counsel for Intellectual Property.

[FR Doc. 2018–24323 Filed 11–6–18; 8:45 am]

BILLING CODE 7510–13–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–9083; NRC–2018–0242]

U.S. Army Ranges With Davy Crockett Depleted Uranium

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment application; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) issued License Amendment No. 3 to the Army. License Amendment No. 3 makes multiple changes to Source Materials License No. SUC–1596: (1) Incorporation by reference of three revised final site-specific Environmental Radiation Monitoring Plans (ERMPs); (2) incorporation by reference of the December 15, 2017, letter, clarifying sampling procedures; (3) incorporation by reference of the letter naming the license Radiation Safety Officer (RSO); (4) incorporation by reference of the letter naming the new Army licensing official; and (5) editorial changes to correct grammar, and formatting. License Amendment No. 3 was effective on the date of issuance. The Army must implement the revised final site-specific ERMPs within 3 months of the date of issuance.

DATES: November 7, 2018.

ADDRESSES: Please refer to Docket ID NRC–2018–0242 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2018–0242. 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: Amy M. Snyder, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6822, email: *Amy.Snyder@nrc.gov.*

SUPPLEMENTARY INFORMATION: In a letter dated June 1, 2017 (ADAMS Accession No. ML17158B356), the Army requested an amendment to Source Materials License No. SUC–1593 (ADAMS Accession No. ML16343A164) pursuant to section 40.44 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Amendment of Licenses at the Request of Licensee.'' The Army requested to replace the three annexes to the programmatic environmental monitoring plan (ERMP) (site-specific ERMPs) with revised final versions, because the Army indicated that Figure 1–2, in each of the three site-specific ERMPs, is incorrect due to sizing/scaling errors made by the Army. The site-specific ERMPs that the Army proposed be replaced with the revised final site-specific ERMPs were the site-specific ERMPs for Fort Polk, LA, (Annex 11) (ADAMS Accession No. ML16265A225), Fort Riley, KS, (Annex 12) (ADAMS Accession No. ML16265A226) and the Pohakuloa Training Area (PTA), HI (Annex 17) (ADAMS Accession No. ML16265A231), dated September 2016. The Army also requested a license amendment that would allow the Army to make similar future ''minor changes'' to site-specific ERMPs without NRC approval.

In a letter dated September 18, 2017 (ADAMS Accession No. ML17226A205), the NRC staff (staff) informed the Army that they completed their acceptance review of the application and found that the request to correct specific figure sizing/scaling errors in the identified site-specific ERMPs contains sufficient information for the staff to begin their detailed technical review. However, the staff determined that the Army's proposal to make similar future ''minor changes'' to site-specific ERMPs without U.S. NRC approval did not contain enough information to accept the request for detailed technical review. Also in the September 18, 2017, letter, the staff informed the Army that it would continue to process the June 1, 2017, license amendment request, to include the appropriate noticing in the **Federal Register**, without further consideration of the ''minor changes'' portion of the license amendment request if the Army did not provide a supplement to the amendment request within 30 days for the staff to evaluate.

On October 18, 2017, the Army informed the staff that it would not pursue the minor changes portion of its June 1, 2017 amendment request. In a letter dated November 21, 2017 (ADAMS Accession No. ML17297B156), the staff informed the Army that the NRC will not consider the ''minor changes'' portion of the Army's June 1, 2017, amendment application.

On December 11, 2017, a notice of an opportunity to request a hearing and to petition for leave to intervene on this licensing proceeding was published in the **Federal Register** (82 FR 58221). No requests were submitted.

On December 15, 2017, the Army submitted supplemental information (ADAMS Accession No. ML18009A456) clarifying how it conducts sediment sample collection. This submittal was a voluntary response to a NRC Petition Review Board's question about sediment sample collection raised in the March 16, 2017, 10 CFR 2.206 petition (ADAMS Accession No. ML17110A308). In a letter dated January 19, 2018 (ADAMS Accession No. ML18023A991), the Army requested that its December 15, 2017, clarification letter be included under License Condition No. 11 for License Amendment No. 3. This portion of License Amendment No. 3 is administrative. An updated **Federal Register** notice (FRN) was not required for this administrative change.

In the March 16, 2017, 10 CFR 2.206 petition, a concern was raised that the

PTA site has unique characteristics, such as ''recent'' lava flows, as exhibited by a vein of dark color that intersects the PTA radiation controlled area (RCAs) where the Davy Crockett depleted uranium (DU) is located, that should be taken into consideration to confirm that surface water flow is not impeded by the recent lava flow and thereby sediment collection is possible in the proposed PTA sediment sampling location designated by the Army. The concern that the sediment sampling location at the PTA site was unacceptable was not accepted by the Director of the Office of Nuclear Material Safety and Safeguards in this petition process because the staff's evaluation of the Army's request to change the sediment sampling location at the PTA was underway in which the petitioner could be a party and through which the petitioner's concerns could be addressed. The staff considered in its review for this licensing action the petitioner's comment asserting that the sediment sampling location at the PTA is inappropriate due to recent lava flows that present a formidable barrier to flow (ADAMS Accession No. ML17279A082).

Also, the NRC staff requested that the License RSO contact information be incorporated by reference in the license consistent with NUREG–1556, Vol. 7, Rev. 1 ''Consolidated Guidance About Material Licenses: Program Specific Guidance About Academic, Research and Development, and Other Licenses of Limited Scope, Including Electron Capture Devices and X-Ray Fluorescence Analyzers'' and past practice for materials licensees managed by regional NRC staff. In addition, in a letter dated September 5, 2018, the Army informed the staff of the appointment of a new Army Installation Management Command Commander. This position is the authorizing official for this license and the letter was incorporated by reference in License Condition No. 11 of License Amendment No. 3.

Because the staff considered the amendment an action related to the possession and management of DU military munitions, change in licensing official and License RSO, and administrative changes, the proceeding was considered to fall within the Categorical Exclusions under 10 CFR 51.22(c)(14)(xv), 10 CFR 51.22(c)(10(iv), and 10 CFR 51.22(c)(10)(v), respectively.

The NRC staff completed a safety evaluation report (SER) (ADAMS Accession No. ML18158A324) of the license amendment request. The staff found that the proposed revised final site-specific ERMPs for Fort Polk, LA, Fort Riley, KS, and the PTA, HI, which contain the corresponding proposed revised Figures 1.2, are consistent with the previously approved programmatic approach for preparation of site-specific ERMPs pursuant to Source Materials License No. SUC–1593, Amendment No. 1. The staff found that the proposed changes do not impact the dose assessment verification because the bounding public dose assessment was not impacted due to change of sampling locations at the identified facilities. The staff found the proposed three revised final site-specific ERMPs to be adequate for monitoring for transport of DU from the RCAs or ranges where the Davy Crockett DU is located.

The staff found that the Army's survey programs, as proposed to be modified by the June 1, 2017 application, would result in a change of sediment and surface water sampling locations at Fort Polk and Fort Riley, and a change in the sediment sampling location at the PTA. The staff found that these changes are reasonable under the circumstances to evaluate the magnitude and extent of radiation levels; the concentrations or quantities of residual radioactivity; and the potential radiological hazards of the radiation levels and residual radioactivity detected at these installations.

The staff determined that the current lava flows in the vicinity of the PTA RCAs (those that transect the RCA area) do not act as an impenetrable barrier to surface water flow towards the general direction of the proposed sediment sample location.

The staff found the reference to the site-specific ERMPs for Fort Polk, LA, Fort Riley, KS, and the PTA, HI, should be removed from License Condition No. 11 in the Source Materials License No. SUC–1593. The proposed revised final site-specific ERMPs for Fort Polk, LA, Fort Riley, KS, and the PTA, HI, and the December 15, 2017, letter, clarifying sediment sample collection should be incorporated by reference in License Condition No. 11 instead. In addition, the staff determined that License Condition No. 18 should be modified to allow additional time from the effective date of License Amendment No. 3 for the Army to implement the revised final site-specific ERMPs for Fort Polk, LA, Fort Riley, KS, and the PTA, HI due to the change in sampling locations. The staff believe that three additional months is sufficient for this purpose. The Army agreed with the proposed license conditions (ADAMS Accession Nos. ML18158A230 and ML18158A284).

The staff determined that the December 15, 2017, clarifying information in the letter does not involve any new actions which were not already previously approved, and that the clarifying information would not modify the current requirements and commitments. The staff determined that the December 15, 2017, clarifying letter should be incorporated by reference in License Condition No. 11. This portion of License Amendment No. 3 is administrative.

The staff determined that incorporation of the contact information of the License RSO, at the request of staff, and the new Army authorizing official for this license would not affect what was already approved in previous licensing actions and the information would not impact the current requirements and commitments. The staff concluded that the contact information for the License RSO and the new Army authorizing official for this license should be incorporated by reference in License Condition No. 11. This portion of License Amendment No. 3 is administrative.

In the course of its review, the staff identified other administrative changes that should be made to the license. These changes consisted of modification of sentences to ensure consistent use of acronyms and initialism, formatting changes, or and correction of grammatical or typographical errors. The staff confirmed that these changes would not change any requirements or commitments or add new requirements or commitments. This portion of License Amendment No. 3 is administrative.

The staff concluded that the findings described in the staff's SER report support the issuance of a license amendment requiring the use of the three revised final site-specific ERMPs by incorporation by reference; the incorporation by reference of the December 15, 2017, letter clarifying sediment sample collection; the incorporation by reference of the February 24, 2010, letter documenting the contact information for the License RSO; and the incorporation by reference of the September 5, 2018, letter documenting the new Army authorizing official for this license.

The staff found that the requested license amendment is in accordance with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), as well as the NRC's rules and regulations.

Therefore, the NRC amended the license to incorporate by reference the revised final site-specific ERMPs for Fort Polk, LA, Fort Riley, KS, and the PTA, HI and removed the corresponding September 2016 versions from the

License Condition 11. In addition, License Condition No. 18 was amended to allow three months from the effective date of License Amendment No. 3 for the Army to implement the revised final site-specific ERMPs for Fort Polk, LA, Fort Riley, KS, and the PTA, HI. Also, the NRC amended the license to incorporate by reference the December 15, 2017, letter clarifying sediment sample collection, as well as the February 24, 2010, letter documenting the contact information for the License RSO, and the September 5, 2018, letter documenting the new Army authorizing official for this license. In addition, the NRC amended the license to address the consistent use of acronyms, initialisms, and formatting, and to correct grammatical errors and typographical errors.

The NRC approved and issued Amendment No. 3 to Source Materials License No. SUC–1593, held by the Army for the 16 U.S. military installations with RCAs with Davy Crockett DU that authorizes the possession of DU. License Amendment No. 3 (ADAMS Accession No. ML18242A352) was effective as of the date of issuance.

Dated at Rockville, Maryland, this 1st day of November, 2018.

For the Nuclear Regulatory Commission.

Stephen Koenick,

Chief, Low-Level Waste and Projects Branch, Division of Decommissioning, Uranium Recovery and Waste Programs, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2018–24277 Filed 11–6–18; 8:45 am]

BILLING CODE 7590–01–P

POSTAL SERVICE

Temporary Emergency Committee of the Board of Governors; Sunshine Act Meeting

DATES AND TIMES: Tuesday, November 13, 2018, at 10:30 a.m.; and Wednesday, November 14, 2018, at 8:30 a.m.

PLACE: Washington, DC, at U.S. Postal Service Headquarters, 475 L'Enfant Plaza SW, in the Benjamin Franklin Room.

STATUS: Tuesday, November 13, 2018, at 10:30 a.m.; Wednesday, November 14, 2018, at 8:30 a.m.—Open.

Matters To Be Considered

Tuesday, November 13, 2018, at 10:30 a.m. (Closed)

1. Strategic Issues.
2. Financial Matters.
3. Compensation and Personnel Matters.
4. Executive Session—Discussion of prior agenda items and Board governance.

Wednesday, November 14, 2018, at 8:30 a.m. (Open)

1. Remarks of the Chairman of the Temporary Emergency Committee of the Board.
2. Remarks of the Postmaster General and CEO.
3. Approval of Minutes of Previous Meetings.
4. Committee Reports.
5. FY2018 10K and Financial Statements.
6. FY2019 IFP and Financing Resolution.
7. FY2020 Appropriations Request.
8. Quarterly Service Performance Report.
9. Approval of Annual Report and Comprehensive Statement.
10. Draft Agenda for February meetings.
11. Public Comment Period.

CONTACT PERSON FOR MORE INFORMATION: Acting Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza SW, Washington, DC 20260–1000. Telephone: (202) 268–4800.

Michael J. Elston,

Acting Secretary.

[FR Doc. 2018–24487 Filed 11–5–18; 4:15 pm]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84522; File No. SR–ISE–2018–89]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Relocate the Exchange's Pricing Schedule

November 1, 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 23, 2018, Nasdaq ISE, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 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 (a) relocate the ISE Schedule of Fees and current Rule 213 to the Exchange's rulebook's (''Rulebook'') shell structure,[3] and (b) make conforming cross-reference changes throughout the Rulebook.

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 Exchange proposes to relocate the entire ISE Schedule of Fees and Rule 213 to the Exchange's shell structure; specifically, the Exchange will relocate the aforementioned rules to the Options 7 (''Pricing Schedule'') section of the shell. In addition, the Exchange will make conforming cross-reference changes throughout the Rulebook.

(a) Relocation of Rules

As indicated, the Exchange, as part of its continued effort to promote efficiency and the conformity of its processes with those of the Affiliated Exchanges, and the goal of harmonizing and uniformizing its rules, proposes to relocate the Schedule of Fees and ISE Rule 213 under Options 7, Pricing Schedule, of the shell structure.

[3] In 2017, the Exchange added a shell structure to its Rulebook with the purpose of improving efficiency and readability and to align its rules closer to those of its five sister exchanges, The Nasdaq Stock Market LLC; Nasdaq BX, Inc.; Nasdaq PHLX LLC; Nasdaq GEMX, LLC; and Nasdaq MRX, LLC (''Affiliated Exchanges''). *See* Securities Exchange Act Release No. 82173 (November 29, 2017), 82 FR 57505 (December 5, 2017) (SR–ISE–2017–102).

Therefore, to improve the readability of the relocated Pricing Schedule rules, the Exchange proposes to update their current ''Preface'' section and rename it ''Section 1. General Provisions.''

Next, the Exchange proposes to mark current ISE Rule 213 as ''Reserved'' and relocate its contents and title (''Collection of Exchange Fees and Other Claims'') under Section 2 of the Options 7, Pricing Schedule.

ISE Rule 213 was added to the Rulebook to permit the Exchange the collection of undisputed or final fees, fines, charges and/or other monetary sanctions or other monies due and owing to the Exchange or other charges related to Rules 205, 206, 207, 208, 209, and 210.[4] The Exchange believes that, unlike other rules in Chapter 2 (''Organization and Administration'') of the Rulebook, which generally refer to the powers of the Board of Directors and the authority it delegates to Senior Management of the Exchange, the direct debit process established in Rule 213 will be better situated among the relocated rules of the Pricing Schedule.

The Exchange is also proposing to move all the remaining sections, I thorough IX, in the current Schedule of Fees, renumber them as provided in the table below, and add the word ''Section'' to each of their titles. Relatedly, the Exchange will update all references to the ''Schedule of Fees'' or ''Fee Schedule'' in the proposed rule text and replace them with the term ''Pricing Schedule'' where appropriate.

Finally, the Exchange will update all references to ''NASDAQ'' in proposed Section 8, I., of the Pricing Schedule with the word ''Nasdaq,'' to keep the proposed rule text consistent with changes to the names of the Affiliated Exchanges.[5]

Options 7—Pricing schedule (proposed)	Schedule of fees (current)
Section 1. General Provisions.	PREFACE
Section 2. Collection of Exchange Fees and Other Claims.	Rule 213. Collection of Exchange Fees and Other Claims.
Section 3. Regular Order Fees and Rebates.	I. Regular Order Fees and Rebates.
Section 4. Complex Order Fees and Rebates.	II. Complex Order Fees and Rebates.
Section 5. Index Options Fees and Rebates.	III. Index Options Fees and Rebates.
Section 6. Other Options Fees and Rebates.	IV. Other Options Fees and Rebates.
Section 7. Connectivity Fees.	V. Connectivity Fees.
Section 8. Access Services.	VI. Access Services.
Section 9. Legal & Regulatory.	VII. Legal & Regulatory.
Section 10. Market Data.	VIII. Market Data.
Section 11. Other Services.	IX. Other Services.

The relocation of the Pricing Schedule rules will facilitate the use of the Rulebook by Members[6] of the Exchange, including those who are members of other Affiliated Exchanges, and other market participants. Moreover, the proposed changes are of a non-substantive nature and will not amend the relocated rules, other than make the updates previously explained.

(b) Cross-Reference Updates

In connection with the changes described above, the Exchange proposes to update all cross-references in the Rulebook that direct the reader to the current location of the Pricing Schedule rules and/or any of their subsections.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5) of the Act,[8] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by promoting efficiency and structural conformity of the Exchange's processes with those of the Affiliated Exchanges and to make the Exchange's Rulebook easier to read and more accessible to its Members and market participants. The Exchange believes that the relocation of the Pricing Schedule rules, updating the name ''NASDAQ'' to ''Nasdaq,'' and related cross-reference updates are of a non-substantive nature.

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 proposed changes do not impose a burden on competition because, as previously stated, they (i) are of a non-substantive nature, (ii) are intended to harmonize the structure of the Exchange's rules with those of its Affiliated Exchanges, and (iii) are intended to organize the Rulebook in a way that it will ease the Members' and market participants' navigation and reading of the rules.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[9] and Rule 19b–4(f)(6) thereunder.[10]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[11] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[12] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposed rule change may become operative upon filing. Waiver of the operative delay would allow the Exchange to promptly relocate the Pricing Schedule rules, which the Exchange believes will improve the

[4] *See* Securities Exchange Act Release No. 79014 (September 30, 2016), 81 FR 69560 (October 6, 2016) (SR–ISE–2016–24).

[5] *See* Securities Exchange Act Releases No. 81917 (October 23, 2017), 82 FR 49879 (October 27, 2017) (SR–NASDAQ–2017–111) and No. 81948 (October 25, 2017), 82 FR 50468 (October 31, 2017) (SR–BX–2017–046).

[6] Exchange Rule 100(a)(30).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 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.

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6)(iii).

organization and readability of the Exchange's Rulebook. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ISE–2018–89 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–2018–89. 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–2018–89, and should be submitted on or before November 28, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–24310 Filed 11–6–18; 8:45 am]

BILLING CODE 8011–01–P

[13] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84515; File No. SR–NYSE–2018–34]

Self-Regulatory Organizations; New York Stock Exchange LLC; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To Amend NYSE Rule 104 Governing Transactions by Designated Market Makers

November 1, 2018.

I. Introduction

On July 31, 2018, New York Stock Exchange LLC (''Exchange'' or ''NYSE'') filed with the Securities and Exchange Commission (''Commission'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend NYSE Rule 104 governing transactions by Designated Market Makers (''DMMs''). The proposed rule change was published for comment in the **Federal Register** on August 16, 2018.[3] On September 24, 2018, the Commission extended to November 14, 2018, the time period in which to approve, disapprove, or institute proceedings to determine whether to approve or disapprove, the proposal.[4] The Commission has received no comments on the proposal. This order institutes proceedings under Section 19(b)(2)(B) of the Act[5] to determine whether to approve or disapprove the proposal.

II. Summary of the Proposed Rule Change

The Exchange proposes to amend NYSE Rule 104, which governs the dealings and responsibilities of Designated Market Makers (''DMMs'') on the Exchange.[6] According to the Exchange, the proposal would consolidate and restructure current Rules 104(g), (h), and (i), which would be deleted and incorporated into a new subsection (g) titled ''Transactions by DMMs.''[7]

Rule 104 currently defines four types of DMM transactions. Current Rule 104(g) defines Neutral Transactions, Non-Conditional Transactions, and Prohibited Transactions, and current Rule 104(h) defines Conditional Transactions.[8] The Exchange proposes to eliminate the definitions of Neutral Transactions, Non-Conditional Transactions, and Prohibited Transactions and to amend the rules regarding Conditional Transactions and rename them ''Aggressing Transactions'' under an amended Rule 104(g).[9]

The Exchange proposes to define an Aggressing Transaction in proposed Rule 104(g)(1)(A) as a DMM unit transaction that is (1) a purchase (sale) that reaches across the market to trade as the contra-side to the Exchange published offer (bid); and (2) priced above (below) the last differently-priced trade on the Exchange and above (below) the last differently-priced published offer (bid) on the Exchange.[10] According to the Exchange, under proposed Rule 104(g)(1)(B), an Aggressing Transaction during the last ten seconds prior to the scheduled close of trading that would result in a new consolidated high (low) price for a security during that trading day would be prohibited, unless the transaction would bring the price of the security

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 83821 (Aug. 10, 2018), 83 FR 40808 (Aug. 16, 2018) (''Notice'').

[4] *See* Securities Exchange Act Release No. 84276 (Sep. 24, 2018), 83 FR 49143 (Sep. 28, 2018).

[5] 15 U.S.C. 78s(b)(2)(B).

[6] Details of the proposal rule change can be found in the Notice. *See* Notice, *supra* note 3.

[7] *See id.* at 40809–10.

[8] *See id.* at 40808–09 (describing current provisions regarding these transaction types).

[9] *See id.* at 40809–10.

[10] *See id.* at 40810.

into parity with an underlying or related security or asset.[11]

According to the Exchange, proposed Rule 104(g)(2)—''Re-Entry Obligations''—would provide that the DMM unit's obligation to maintain a fair and orderly market may require re-entry on the opposite side of the market after effecting one or more transactions.[12] According to the Exchange, proposed Rule 104(g)(2) would provide that this re-entry should be commensurate with the size of the transactions and the immediate and anticipated needs of the market, and the Exchange states that these are the same requirements currently specified for Neutral and Non-Conditional Transactions and for certain Conditional Transactions.[13]

Proposed Rule 104(g)(2)(A) would require that, after an Aggressing Transaction, a DMM unit must re-enter the opposite side of the market at or before the applicable Price Participation Point—which would be defined in proposed Rule 104(g)(3)—for that security, commensurate with the size of the Aggressing Transaction.[14] Proposed Rule 104(g)(2)(B) would require that, following an Aggressing Transaction that is 10,000 shares or more or has a market value of $200,000 or more and exceeds 50% of the published offer (bid) size, the DMM unit must immediately re-enter the opposite side of the market at or before the applicable Price Participation Point for that security commensurate with the size of the Aggressing Transaction.[15]

According to the Exchange, under proposed Rule 104(g)(3)(A), the Exchange would periodically issue Price Participation Point guidelines that identify the price at or before which a DMM unit is expected to re-enter the market following an Aggressing Transaction.[16] Proposed Rule 104(g)(3)(A) would also provide that, the Price Participation Points are only minimum guidelines and compliance with them does not guarantee that a DMM unit is meeting its obligations.[17]

Proposed Rule 104(g)(3)(B) would provide that, notwithstanding that a security may not have reached the Price Participation Point, the DMM unit may be required to re-enter the market immediately after an Aggressing Transaction based on the price and/or volume of the DMM unit's trading in reference to the market in the security at the time of the trading.[18] In such situations, proposed Rule 104(g)(3)(B) would state, DMM units may or may not rely on the fact and circumstance that there may have been one or more independent trades following the DMM unit's trading to justify a failure to re-enter the market.[19]

III. Proceedings To Determine Whether To Approve or Disapprove the Proposed Rule Change and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act[20] to determine whether the proposal should be approved or disapproved. Institution of proceedings is appropriate at this time in view of the legal and policy issues raised by the proposal, as discussed below. Institution of disapproval proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, as described in greater detail below, the Commission seeks and encourages interested persons to provide additional comment on the proposal.

Pursuant to Section 19(b)(2)(B) of the Act, the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of the proposed rule change's consistency with Section 6(b)(5) of the Act,[21] which requires that the rules of an exchange be designed, among other things, to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest, and which prohibits the rules of an exchange from being designed to permit unfair discrimination between customers, issuers, brokers, or dealers, and with Section 6(b)(8) of the Act, which requires that the rules of an exchange not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

IV. Solicitation of Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the concerns identified above, as well as any other concerns they may have with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposal is inconsistent with Section 6(b)(5) or any other provisions of the Act, or the rules and regulation thereunder. Although there do not appear to be any issues relevant to approval or disapproval which would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4, any request for an opportunity to make an oral presentation.[22]

Interested persons are invited to submit written data, views, and arguments regarding whether the proposal should be approved or disapproved by November 28, 2018. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by December 12, 2018.

In particular, the Commission is interested in public comment on the following topics.

1. What are commenters' views regarding the Exchange's proposal to replace the existing rule against Prohibited Transactions, which is in effect during the last 10 minutes of trading, with the proposed prohibition of Aggressing Transactions during the last 10 seconds of trading that would result in a new consolidated high (low) price for a security during that trading day?[23]

2. Do commenters believe that a prohibition against Aggressing Transactions during the last 10 seconds of trading that would result in a new consolidated high (low) price for a security during that trading day would be sufficient to prevent DMMs from aggressively taking liquidity and moving prices on the Exchange immediately before the closing auction? Why or why not? What are commenters' views on the trading statistics offered by the Exchange to support its proposal to prohibit Aggressing Transactions only during the last 10 seconds of trading?[24] Do commenters believe that a different

[11] *See id.*

[12] *See id.* at 40811.

[13] *See id.*

[14] *See id.*

[15] *See id.*

[16] *See id.* at 40812.

[17] *See id.*

[18] *See id.*

[19] *See id.*

[20] 15 U.S.C. 78s(b)(2)(B).

[21] 15 U.S.C. 78f(b)(5).

[22] Section 19(b)(2) of the Act, as amended by the Securities Act Amendments of 1975, Public Law 94–29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Act Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

[23] As noted above, such transaction would be permitted if they would bring the price of the security into parity with an underlying security or asset. *See supra* note 11 & accompanying text.

[24] *See* Notice, *supra* note 3, 83 FR 40813, nn.14 & 18.

duration for such a prohibition would be preferable? If so, what duration and why?

3. What are commenters' views on the significance of the proposed change from the current prohibition against certain transactions that would set a new high or low price on the *Exchange* for the day to the proposed prohibition against certain transactions that would result in a new *consolidated* high or low price for the day? Do commenters believe that this change would have additional consequences for the operation of Rule 104?

4. What are commenters' views on how the obligations imposed on DMMs by proposed NYSE Rule 104 during the rest of the trading day would compare with the obligations imposed by current NYSE Rule 104?

5. What are commenters' views on the Exchange's argument that changes to NYSE Rule 104 would promote aggressive DMM quoting in their assigned securities? What are commenters' views on the Exchange's argument that DMMs are currently at a competitive disadvantage because of NYSE Rule 104 and that the current rule ''thwarts the ability of the DMM to meet their affirmative obligations to quote aggressively in assigned securities''?

6. What are commenters' views on whether the ''Price Participation Points'' that the Exchange provides to its DMMs would be sufficient under the proposed changes to NYSE Rule 104 to prevent DMMs from aggressively taking liquidity and moving prices on the Exchange immediately before the closing auction?

7. Existing Rules 104(g) and (h) refer to ''DMMs,'' and proposed Rule 104(g) would refer instead to ''DMM units.'' What are commenters' views of the significance, if any, of this change in wording? What are commenters' views on whether the amended rule should apply to the activities of individuals trading as DMMs on the Exchange floor?

8. Generally, would the Exchange's proposal maintain an appropriate balance between the benefits and obligations of being a DMM on the Exchange? [25] In light of DMMs' special responsibility for closing auctions under NYSE rules, would the obligations of DMMs under NYSE rules be reasonably designed to prevent DMMs from inappropriately influencing or manipulating the close if the proposed rule change were approved?

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–2018–34 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–NYSE–2018–34. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of 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–NYSE–2018–34 and should be submitted on or before November 28, 2018. Rebuttal comments should be submitted by December 12, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–24303 Filed 11–6–18; 8:45 am]

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[25] Current NYSE Rule 104 was originally approved as part of the NYSE pilot program called the ''New Market Model.'' *See* Securities Exchange Act Release No. 58845 (Oct. 24, 2008), 73 FR 64379 (Oct. 29, 2008). As the Commission stated when approving the NYSE's proposal to conduct the New Market Model pilot, ''[w]e carefully review trading rule proposals that seek to offer special advantages to market makers. Although an exchange may reward such participants for the benefits they provide to the exchange's market, such reward must not be disproportionate to the services provided.'' *See id.* In 2015, the Commission permanently approved the New Market Model pilot and noted that the pilot had been conducted to seek ''further evidence that the benefits proposed for DMMs are not disproportionate to their obligations.'' *See* Securities Exchange Act Release No. 75578 (July 31, 2015), 80 FR 47008 (Aug. 6, 2015).

[26] 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84520; File No. SR–BX–2018–050]

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Add Definitions to Chapter I, Section 1, Titled General Provisions and Also Amend Chapter VI, Section 18, Titled Risk Protections

November 1, 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 18, 2018, Nasdaq BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to add definitions to Chapter I, Section 1, titled ''General Provisions'' and also amend Chapter VI, Section 18, titled, ''Risk Protections.''

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqbx.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

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 this rule change is to adopt certain definitions within Chapter I, Section 1, titled ''General Provisions'' and also amend Chapter VI, Section 18, titled, ''Risk Protections.'' Each change is described in more detail below.

Definitions

The Exchange proposes to amend Chapter I, Section 1 to add three new definitions into its Rulebook. These definitions are utilized in technical documents issued by the Exchange and will provide an ease of reference for understanding these terms. Specifically, Chapter I, Section 1(a)(70) would define an account number as a number assigned to a Participant. Participants may have more than one account number. Chapter I, Section 1(a)(71) would define a badge as an account number, which may contain letters and/or numbers, assigned to BX Market Makers. A BX Market Maker account may be associated with multiple badges. Finally, Chapter I, Section 1(a)(72) would define a mnemonic as an acronym comprised of letters and/or numbers assigned to Participants. A Participant account may be associated with multiple mnemonics.

Risk Protections

Order Price Protection

The Exchange proposes a minor amendment to Chapter VI, Section 18(1) to add punctuation and ''OPP'' at the beginning of that sentence to conform the text to the remainder of the rule. The Exchange proposes to remove the example within Rule Chapter VI, Section 18(1)(B)(i) which states, ''For example, if the Reference BBO on the offer side is $1.10, an order to buy options for more than $1.65 would be rejected. Similarly, if the Reference BBO on the bid side is $1.10, an order to sell options for less than $0.55 will be rejected.'' The Exchange also proposes to remove the example within Chapter VI, Section 18(1)(B)(ii) which states, ''For example, if the Reference BBO on the offer side is $1.00, an order to buy options for more than $2.00 would be rejected. However, if the Reference BBO of the bid side of an incoming order to sell is less than or equal to $1.00, the OPP limits set forth above will result in all incoming sell orders being accepted regardless of their limit.'' The Exchange notes that while the examples remain accurate, the Exchange proposes to remove the text to conform the rule text to other risk protections. The Exchange does not believe it is necessary to have these examples within the rule text.

Market Order Spread Protection

The Exchange proposes to amend the Market Order Spread Protection Rule in Chapter VI, Section 18(a)(2) to permit BX to establish different thresholds for one or more series or classes of options similar to Phlx.[3] The Exchange desires, similar to Phlx, to be permitted the flexibility to allow it to determine a threshold suitable for each series or class of option. The Exchange's current rule provides no discretion to permit different thresholds for one or more series or classes of options. By adding this rule text, the Exchange proposes to permit one or more series or classes of options to set a different threshold, which the Exchange would announce via an Options Trader Alert, similar to Phlx. The Exchange desires to conform this protection to Phlx so that it could set the same threshold across affiliated markets. The Phlx Rule Change provided that the $5 threshold is appropriate because it seeks to ensure that the displayed bid and offer are within reasonable ranges and do not represent erroneous prices. Further the Exchange noted that this protection will bolster the normal resilience and market behavior that persistently produces robust reference prices. This feature should create a level of protection that prevents Market Orders from entering the Order Book outside of an acceptable range for the Market Order to execute. The Exchange notes that those goals remain consistent with the Exchange's goals today for this risk feature. The Exchange would establish different thresholds for one or more series or classes of options if it believed that the threshold should differ to retain these goals.

Anti-Internalization

The Exchange proposes to add a new sentence to Anti-Internalization Rule at Chapter VI, Section 18(c)(1) to provide that Anti-Internalization functionality shall not apply in any auction. This is the current practice today. With respect to an auction,[4] the Exchange notes that Anti-Internalization functionality is difficult to apply during auctions, and there is limited benefit in doing so. There is limited benefit because, generally speaking, auctions do not raise the same policy concerns for wash sales and ERISA [5] due to the semi-random manner in which trades are matched. Also, the Exchange notes that with respect to entering quotes in an auction, a Market Maker could not start an auction in symbols in which they are assigned. With respect to orders, Market Makers can only commence a PRISM in a non-assigned symbol.[6] It is not common for a Market Maker to commence such an auction. Finally, the Exchange notes that Nasdaq ISE, LLC Rule 714(b)(3)(A) contains the same constraint in that it does not apply the Anti-Internalization protection in any auction.

Automated Removal of Quotes

Finally, the Exchange proposes to amend the title of Chapter VI, Section 18(c)(2) from ''Automated Removal of Quotes'' to ''Quotation Adjustments'' to conform the title across Nasdaq markets.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5) of the Act,[8] in particular, in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest by adding greater transparency to the Exchange's rules. The Exchange's proposal to add definitions to Chapter I, Section 1 will bring greater clarity to the Anti-Internalization functionality and to the Rulebook. Amendments to remove examples from the OPP rule text will conform the rule text to other rules. The Exchange believes that it is unnecessary to have examples in the rule text. Adding the word ''trading'' before the word ''halt'' within the Market Order

[3] Securities Exchange Act Release No. 83141 (May 1, 2018), 83 FR 20123 (May 7, 2018) (SR–Phlx–2018–32). Footnote 11 of this filing provides that Exchange may establish differences other than the referenced threshold for one or more series or classes of options.

[4] PRISM is the Exchange's Price Improvement Auction. *See* BX Rules at Chapter VI, Section 9.

[5] AIQ is designed to assist market participants in complying with certain rules and regulations of the Employee Retirement Income Security Act (''ERISA'') that preclude and/or limit managing broker-dealers of such accounts from trading as principal with orders generated for those accounts. It can also assist Market Makers in reducing trading costs from unwanted executions potentially resulting from the interaction of executable buy and sell trading interest from the same firm when performing the same market making function.

[6] Specialists and ROTs can only quote in symbols in which they are assigned.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

Spread Protection rule text will bring conformity to Chapter VI, Section 18.

The Exchange's proposal to expand the Market Order Spread Protection permits the Exchange to establish different thresholds for one or more series or classes of options similar to Phlx. The Exchange desires this flexibility to allow it, similar to Phlx,[9] to determine a threshold suitable for each series or class of option. The Exchange believes that expanding this capability is consistent with the Act because it would allow the Exchange to consider thresholds for Market Order Spread Protection at a more granular level, per series or class, to ensure that the displayed bid and offer are within reasonable ranges and do not represent erroneous prices. The Exchange intends that this risk protection would bolster the normal resilience and market behavior that persistently produces robust reference prices, while creating a level of protection that prevents Market Orders from entering the Order Book outside of an acceptable range for the Market Order to execute.

The Exchange's proposal to make clear that the Anti-Internalization functionality will not apply in any auction will also bring greater transparency to the rules and the limitation of this functionality. With respect to an auction,[10] the Exchange notes that Anti-Internalization functionality is difficult to apply during auctions, and there is limited benefit in doing so. There is limited benefit because, generally speaking, auctions do not raise the same policy concerns for wash sales and ERISA [11] due to the semi-random manner in which trades are matched. Also, the Exchange notes that with respect to entering quotes in an auction, a Market Maker could not start an auction in symbols in which they are assigned. With respect to orders, Market Makers can only commence a PRISM in a non-assigned symbol. It is not common for a Market Maker to commence such an auction.

Finally, the Exchange's proposal to amend the title of Chapter VI, Section 18(c)(2) from ''Automated Removal of Quotes'' to ''Quotation Adjustments'' should better describe the rule and conform the title to other Nasdaq affiliate markets. The proposals noted herein are consistent with the Act because they provide more detail and transparency to the Exchange's rules noted herein to the benefit of market participants.

[9] *See* note 4 above.

[10] PIXL is the Exchange's Price Improvement XL auction. *See* Phlx Rule 1087.

[11] *See* note 6 above.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed amendments do not impose an undue burden on competition because the definitions and amendments to conform the rule text will provide greater clarity as to the meaning of those terms. Removing examples from the OPP rule text does not impose an undue burden on competition because this text is not necessary within the rule text. Adding the word ''trading'' before the word ''halt'' within the Market Order Spread Protection rule text will bring conformity to Chapter VI, Section 18. The Exchange's proposal to expand the Market Order Spread Protection to permit the Exchange to establish different thresholds for one or more series or classes of options, similar to Phlx, would apply uniformly to all market participants.

The Exchange's proposal to make clear that the Anti-Internalization functionality will not apply in any auction will also bring greater transparency to the rules and the limitation of this functionality. With respect to an auction, the Exchange notes that Anti-Internalization functionality is difficult to apply during auctions, and there is limited benefit in doing so. There is limited benefit because, generally speaking, auctions do not raise the same policy concerns for wash sales and ERISA [12] due to the semi-random manner in which trades are matched. Finally, the Exchange's proposal to amend the title of Rule Chapter VI, Section 18(c)(2) is non-substantive.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [13] and Rule 19b–4(f)(6) thereunder.[14]

[12] See note 6 above.

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [15] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [16] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposed rule change may become operative upon filing. The Exchange believes that waiver of the operative delay would allow the Exchange to update its rules without delay to remove inconsistent rule language, make clarifying changes to reflect current and accurate information, and bring greater transparency to the Exchange's risk protections and Anti-Internalization rule. Additionally, the Commission notes that the changes relating to the Anti-Internalization functionality and Market Order Spread Protection are based on the operation of similar functionality on Nasdaq ISE and Phlx, respectively. Therefore, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[17]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 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.

[15] 17 CFR 240.19b–4(f)(6).

[16] 17 CFR 240.19b–4(f)(6)(iii).

[17] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BX–2018–050 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–BX–2018–050. 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–BX–2018–050, and should be submitted on or before November 28, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–24308 Filed 11–6–18; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84521; File No. SR–OCC–2018–013]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change To Extend Term Limits for Member Directors Serving on The Options Clearing Corporation's Board of Directors

November 1, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'' or ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 26, 2018, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change by OCC would extend the term limits for Member Directors serving on the Board of Directors from two consecutive three-year terms to three consecutive three-year terms. The proposed changes to OCC's By-Laws and Board of Directors Charter and Corporate Governance Principles are included as Exhibits 5A and 5B, respectively. Material proposed to be added is underlined and material proposed to be deleted is marked in strikethrough text. The proposed rule change, including Exhibits 5A and 5B, is available on OCC's website at *https://www.theocc.com/about/publications/bylaws.jsp.* All terms with initial capitalization that are not otherwise defined herein have the same meaning as set forth in the OCC By-Laws and Rules.[3]

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC 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. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

Background

OCC is proposing changes to Article III, Section 2 of its By-Laws and to its Board of Directors Charter and Corporate Governance Principles (''Board Charter'') that would extend the term limits for Member Directors from two consecutive three-year terms to three consecutive three-year terms. The purpose of the proposed rule change is to address issues associated with frequent Member Director turnover by providing the potential for longer consecutive service by Member Directors who, among other considerations, may have developed considerable knowledge about OCC's business and the interests of Clearing Members.

Board Composition and Member Director Considerations

OCC's Certificate of Incorporation and By-Laws establish the composition of its Board of Directors (''Board'') and the procedures for director selection. When at its full capacity, the Board consists of twenty directors: (i) Nine directors representing OCC Clearing Members (''Member Directors''); (ii) five directors designated by and representing each of OCC's five Equity Exchanges (''Exchange Directors''); (iii) five directors who are not affiliated with any national securities exchange, national securities association or with any broker or dealer in securities (''Public Directors''); and (iv) one management director, who serves as the Executive Chairman (''Management Director'').[4]

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[18] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] OCC's By-Laws and Rules can be found on OCC's public website: *http://optionsclearing.com/about/publications/bylaws.jsp.* OCC's Board of Directors Charter and Corporate Governance Principles is also available on OCC's public website: *https://www.theocc.com/about/corporate-information/board-charter.jsp.*

[4] OCC By-Laws, Article III, Sections 1, 2, 6, 6A and 7 (addressing the number of directors and required qualifications of Member Directors, Exchange Directors, Public Directors and the

In connection with OCC's status as a registered clearing agency, Section 17A(b)(3)(C) of the Act [5] requires, among other things, that OCC's rules [6] must assure a fair representation of its participants in the selection of its directors and administration of its affairs.[7] The term ''participant'' when used with respect to a clearing agency under the Act means any person, such as a Clearing Member, who directly uses the clearing agency to clear or settle securities transactions.[8] Accordingly, OCC's By-Laws set forth the qualifications for Member Directors, providing that a Member Director must be either a (i) Clearing Member or (ii) representative (*e.g.,* a director, senior officer, principal or general partner) of a Clearing Member Organization or an affiliate of such organization.[9]

At the annual meeting of stockholders, OCC's stockholders elect Member Directors from a list of nominees prepared by the Board's Governance and Nominating Committee (''GNC'') and approved by the Board.[10] In furtherance of the Act's fair representation requirement described above, Article III, Section 5 of OCC's By-Laws requires the GNC in selecting Member Director nominees to ''endeavor to achieve balanced representation among Clearing Members on the Board of Directors to assure that (i) not all Member Directors are representatives of the largest Clearing Member Organizations based on the prior year's volume, and (ii) the mix of Member Directors includes representatives of Clearing Member Organizations that are primarily engaged in agency trading on behalf of retail customers or individual investors.'' [11] All director nominees, including Member Director nominees, must also be considered under standards for directors in OCC's Fitness Standards for Directors, Clearing Members and Others (''Fitness Standards'') [12] regarding their skills, experience, expertise, attributes and professional backgrounds.[13] OCC's Fitness Standards also promote the fair representation considerations noted above under Section 17A(b)(3)(C) of the Act [14] and Article III, Section 5 of the By-Laws in that they require that the GNC in nominating directors seek to achieve a balanced representation of directors among all Clearing Members and among the business activities of Clearing Members.[15]

Member Director Term Limits

Member Directors are the only OCC directors currently subject to term limits.[16] Specifically, Member Directors are limited to serving two consecutive three-year terms for a total for a total of six consecutive years of Board service (excluding any time that may be served filling a vacancy).[17] These term limits are one of several mechanisms that help ensure that the composition of Member Directors serving on OCC's Board is rotated on a periodic basis to promote fair representation of Clearing Members. Other mechanisms include the GNC's administration of the fair representation considerations that are set out in Article III, Section 5 of the By-Laws,[18] a review by the GNC at least every three years of the composition of the Board as a whole for consistency with public interest and regulatory requirements [19] and evaluation of the potential nominees under the Fitness Standards.[20]

In a recent review by OCC of the tenure of its Member Directors from 1999 to 2018, OCC found that a majority of Member Directors during the period served for less than their full period of eligible service.[21] This high level of Member Director turnover indicates that factors other than Member Director term limits are already providing opportunities for OCC to rotate Board representation among the body of OCC Clearing Members. It is also the case that a high rate of early departures by Member Directors can risk impairing the Board's effectiveness due to the related disruptions in its composition as a decision-making body and the loss of institutional knowledge held by the departing Member Directors. Early departures of Member Directors also raise administrative efficiency concerns for OCC because it must devote substantial time and resources to the identification of appropriate new Member Director candidates and to their orientation upon election.

Proposed Changes

As an available tool to help address the concerns described above regarding Member Director turnover, OCC proposes to amend its By-Laws and its Board Charter to provide that a Member Director may serve for a limit of three consecutive three-year terms rather than two consecutive three-year terms.[22] OCC believes that this change would enhance the tools at its disposal to promote administrative efficiency of the Board without compromising fair representation among Clearing Members. In OCC's experience, Member Directors who reach the current two-term limit often have developed considerable knowledge of OCC's business and provide valuable judgment about the intersection of OCC's interests and the interests of Clearing Members. If the continued service of such a Member Director would be appropriate

Management Director); *see also* Board Charter at 4 (Size of Board; Composition).

[5] 15 U.S.C. 78q–1(b)(3)(C).

[6] 15 U.S.C. 78c(a)(27) (defining the term ''rules of a clearing agency'').

[7] The Commission has noted that the Act ''does not define fair representation or set up particular standards of representation. Instead, it provides that the Commission must determine whether the rules of the clearing agency regarding the manner in which decisions are made give fair voice to participants as well as to shareholders in the selection of directors and the administration of its affairs. The Commission has stated that 'at a minimum, fair representation requires that the entity responsible for nominating individuals for membership on the board of directors should be obligated by by-law or rule to make nominations with a view toward assuring fair representation of the interests of shareholders and a cross-section of the community of participants.''' Securities Exchange Act Release No. 72564 (July 8, 2014), 79 FR 40824, 40828 (July 14, 2014) (internal citations omitted).

[8] *See* 15 U.S.C. 78c(a)(24) (defining the term ''participant'' when used with respect to a clearing agency) and 15 U.S.C. 78c(a)(9) (defining the term ''person'').

[9] OCC By-Laws, Article I, Section 1.R.(6) and Article III, Section 2.

[10] OCC By-Laws, Article III, Section 5. In advance of the election, OCC shares the list of nominees with Clearing Members who are provided an opportunity to submit additional nominees. *Id.*

[11] OCC By-Laws, Article III, Section 5.

[12] The Fitness Standards are available on OCC's public website: *https://www.theocc.com/about/corporate-information/board-charter.jsp.*

[13] *See* OCC's Fitness Standards at 1–2; *see also* OCC Governance and Nominating Committee Charter (''GNC Charter'') at 3 (providing that the GNC shall identify, screen and review individuals qualified to be elected or appointed to serve as Member Directors consistent with the Fitness Standards), available on OCC's public website at *https://www.theocc.com/about/corporate-information/board-committee-charters.jsp;* OCC By-Laws Article III, Section 2, Interpretation and Policy .01 (providing that the GNC shall use the Fitness Standards for Directors, Clearing Members and Others in considering Member Director nominees).

[14] 15 U.S.C. 78q–1(b)(3)(C).

[15] Fitness Standards at 2.

[16] Exchange Directors, Public Directors and the Management Director are not subject to any term limits.

[17] OCC By-Laws, Article III, Section 2(a). For example, a Member Director who is appointed in 2018 to fill a vacancy and then is elected to serve a three-year term beginning in 2020 would currently be eligible to serve out two consecutive three-year terms ending in 2026.

[18] *See supra* note 11 and accompanying text.

[19] *See* GNC Charter at 3–4.

[20] *See* Fitness Standards at 2 (requiring consideration of additional criteria for Member Directors such as balanced representation among all Clearing Members and the development of a mix of Member Directors).

[21] A Member Director may leave before the end of his or her term for a variety of reasons such as retirement, moving to a new firm, changing jobs within a firm, or because the GNC declines to nominate the individual for an additional term.

[22] Specifically, OCC would replace the reference to ''two'' consecutive term limits with ''three'' consecutive term limits in Article III, Section 2 of the By-Laws and in Item 8 of the Membership subsection under the Board Issues section of the Board Charter.

but for the current term limit as decided through the Board's approval of the nominee, OCC believes that it should not have to forgo the benefits of that Member Director's service for an additional consecutive three-year term for reasons unrelated to the quality of the Member Director's service. Currently, a high performing Member Director in this situation would be denied the ability to serve a third consecutive three-year term, to the detriment of OCC and its stakeholders. By contrast, a similarly situated Public Director or Exchange Director would not be limited in this way since they are not subject to term limits.

In connection with the proposed rule change, Member Directors would still be required to be nominated by the Board and elected by OCC's stockholders to each three-year term. Therefore, the proposed rule change would not guarantee that any Member Director would serve for the proposed limit of three consecutive three-year terms. Rather, a Member Director would merely be eligible to serve a third consecutive term if such continued service was also appropriate under all other relevant considerations (*e.g.,* the GNC's administration of the fair representation considerations in Article III, Section 5 of the By-Laws, a review by the GNC at least every three years of the composition of the Board as a whole for consistency with public interest and regulatory requirements, and the evaluation of the potential nominees under the Fitness Standards). In the case of any Member Director who has served two consecutive terms, the GNC would be free to determine that such Member Director would not be appropriate as a nominee for a third consecutive term, including in light of the fair representation considerations described above. However, where a high performing Member Director is not otherwise disqualified, OCC would not be forced to lose the benefits of his or her continued service for a third consecutive three-year term.

(2) Statutory Basis

Section 17A(b)(3)(F) of the Act [23] requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions, and, in general, protect investors and the public interest. OCC believes that the proposed rule change is consistent with these requirements because OCC would be afforded flexibility to continue to benefit from the institutional knowledge and experience of a Member Director for a third consecutive three-year term where appropriate. The benefits that flow from informed and experienced Member Directors in turn help OCC carry out its clearing agency functions to promote the prompt and accurate clearance and settlement of securities transactions, consistent with the protection of investors and the public interest. Allowing for this flexibility would increase the tools available to OCC to mitigate the effects of high Member Director turnover on Board performance, which in turn promotes OCC's ability to carry out its clearing agency functions consistent with Section 17A(b)(3)(F) of the Act. [24]

As described above, Section 17A(b)(3)(C) of the Act [25] requires, among other things, that the rules of a clearing agency assure a fair representation of its participants in the selection of its directors and administration of its affairs.[26] OCC believes that the proposed rule change is consistent with the fair representation requirements of Section 17A(b)(3)(C) of the Act [27] because it would provide OCC with greater flexibility to select Member Directors who optimize Board performance while keeping in place the mechanisms described above that would continue to promote fair representation among Clearing Members on the Board, including: the GNC's administration of the fair representation considerations in Article III, Section 5 of the By-Laws, a review by the GNC at least every three years of the composition of the Board as a whole for consistency with public interest and regulatory requirements, and evaluation of the potential nominees under the Fitness Standards.[28] The proposed rule change would cause Member Directors to be eligible to serve a third consecutive three-year term but would not guarantee that any Member Director would be nominated or elected to a third consecutive term. Moreover, in certain circumstances the disqualification of Member Directors who have reached the current term limit could actually inhibit OCC's ability to assure fair representation where the disqualified Member Director is a superior candidate to others in terms of assuring fair representation among Clearing Members. In this regard, the greater flexibility OCC would enjoy under the proposed rule change offers greater opportunity to assure consistency with Section 17A(b)(3)(C) of the Act [29] by not precluding Member Director nominees who could further fair representation objectives through continued service.

Rules 17Ad–22(e)(2)(i)–(iv) under the Act [30] require that a covered clearing agency, such as OCC, establish, implement, maintain and enforce written policies and procedures reasonably designed to ''provide for governance arrangements that, among other things: (i) Are clear and transparent; (ii) clearly prioritize the safety and efficiency of the covered clearing agency; (iii) support the public interest requirements in Section 17A of the Act (15 U.S.C. 78q–1) applicable to clearing agencies, and the objectives of owners and participants; and (iv) establish that the board of directors and senior management have appropriate experience and skills to discharge their duties and responsibilities[.]'' OCC believes that the proposed rule change would be consistent with these requirements for the reasons described below.

The revised term limits for Member Directors would be set forth explicitly in OCC's By-Laws and its Board Charter that are available on its website, consistent with clear and transparent governance arrangements.[31] The proposed rule change would also promote a governance structure that prioritizes the safety and efficiency of OCC by providing it with greater flexibility, where appropriate, to retain the institutional knowledge and skills of high performing Member Directors for a third consecutive three-year term.[32] For the same reasons described above regarding how the proposed rule change is consistent with the fair representation requirements under Section 17A(b)(3)(C) of the Act, the proposed rule change would also be consistent with the requirement in Rule 17Ad–22(e)(2)(iii) [33] to support the public interest requirements in Section 17A of the Act (which includes the fair representation requirement) applicable to clearing agencies and the objectives of owners and participants. Finally, consistent with Rule 17Ad–22(e)(2)(iv) [34] the proposed rule change would promote a Board structure in which OCC's directors have appropriate experience and skills to discharge their duties and responsibilities by making available an additional pool of qualified Member Director candidates who have

[23] 15 U.S.C. 78q–1(b)(3)(F).

[24] *Id.*

[25] 15 U.S.C. 78q–1(b)(3)(C).

[26] *See supra* note 7.

[27] 15 U.S.C. 78q–1(b)(3)(C).

[28] *See supra* notes 18–20 and accompanying text.

[29] 15 U.S.C. 78q–1(b)(3)(C).

[30] 17 CFR 240.17Ad–22(e)(2)(i)—(iv).

[31] 17 CFR 240.17Ad–22(e)(2)(i).

[32] 17 CFR 240.17Ad–22(e)(2)(ii).

[33] 17 CFR 240.17Ad–22(e)(2)(iii).

[34] 17 CFR 240.17Ad–22(e)(2)(iv).

already served two consecutive three-year terms and therefore may possess institutional knowledge and judgment that is valuable to the Board and difficult to replace.

The proposed rule change is not inconsistent with the existing rules of OCC, including any other rules proposed to be amended.

(B) Clearing Agency's Statement on Burden on Competition

Section 17A(b)(3)(I) of the Act [35] requires that the rules of a clearing agency not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. OCC does not believe that the proposed rule change would impact or impose any burden on competition.

Clearing Members would not be placed at a competitive disadvantage to other Clearing Members as a result of Member Directors becoming eligible to serve for a third consecutive three-year term. Member Directors would still be required to be nominated by the GNC and elected by OCC's stockholders, and in the case of any Member Director who has served two consecutive terms the GNC would remain free to determine that such Member Director is not appropriate as a nominee for a third consecutive term, including in light of fair representation considerations. In this way, the proposed rule change applies equally to all Clearing Members. The proposed term limit increase is intended to provide OCC with greater flexibility to select Member Directors who optimize Board performance while keeping in place existing requirements that promote fair representation among Clearing Members on the Board, such as the GNC's administration of the fair representation considerations in Article III, Section 5 of the By-Laws, a review by the GNC at least every three years of the composition of the Board as a whole for consistency with public interest and regulatory requirements, and evaluation of the potential nominees under the Fitness Standards.[36]

For the foregoing reasons, OCC believes that the proposed rule change is in the public interest, would be consistent with the requirements of the Act applicable to clearing agencies, and would not impact or impose a burden on competition.

[35] 15 U.S.C. 78q–1(b)(3)(I).

[36] *See supra* notes 18–20 and accompanying text.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments on the proposed rule change were not and are not intended to be solicited with respect to the proposed rule change and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self- regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–OCC–2018–013 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–OCC–2018–013. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of OCC and on OCC's website at *https://www.theocc.com/about/publications/bylaws.jsp*.

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–OCC–2018–013 and should be submitted on or before November 28, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[37]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–24309 Filed 11–6–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84516; File No. SR–ISE–2018–91]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Delete ISE Section 22 of the Rulebook Entitled "Rate-Modified Foreign Currency Options Rules"

November 1, 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 25, 2018, Nasdaq ISE, LLC ("ISE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "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.

[37] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 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 delete ISE Section 22 of the Rulebook entitled ''Rate-Modified Foreign Currency Options Rules.''

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

Today, the Exchange has a set of rules within ISE Section 22, titled ''Rate-Modified Foreign Currency Options Rules'' which governs the listing and trading of foreign currency options on ISE. The Exchange proposes to delete ISE Section 22.

Background

In 2007, ISE received approval for the listing and trading of cash-settled rate-modified foreign currency options (''FCOs'').[3] The Exchange adopted rules for the listing and trading of FCOs on the following currencies: The euro, the British pound, the Australian dollar, the New Zealand dollar, the Japanese yen, the Canadian dollar, the Swiss franc, the Chinese renminbi, the Mexican peso, the Swedish krona, the Russian ruble, the South African rand, the Brazilian real, the Israeli shekel, the Norwegian krone, the Polish zloty, the Hungarian forint, the Czech koruna and the Korean won (collectively, the ''Currencies''). The Exchange currently has rules which permit it to list and trade FCOs that include, among other things, the U.S. Dollar on one side of the underlying currency pair, as well as certain cross-rate FCOs that include two of the aforementioned Currencies in the underlying currency pair.

Proposal

The Exchange notes that it has not listed or traded any FCOs since January 2018.[4] The Exchange does not desire to list or trade FCOs on ISE at this time. The Exchange proposes to eliminate the rules within ISE Section 22 and reserve this section. The Exchange would file rules with the Commission to list and trade FCOs if it determines to list and trade foreign currency options at a later date.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Section 6(b)(5) of the Act,[6] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by eliminating rules within its Rulebook which it no longer intends to utilize for listing and trading FCOs.

The Exchange notes that it has not listed or traded any FCOs since January 2018. The Exchange does not desire to list or trade FCOs on ISE at this time. The Exchange proposes to eliminate the rules within ISE Section 22 and reserve this section. The Exchange would file rules with the Commission to list and trade FCOs if it determines to list and trade foreign currency options at a later date.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that eliminating the ISE Section 22 rules will create an undue burden on intra-market competition because no market participant on ISE would be able to trade FCOs. Further the Exchange notes that the deletion of the ISE Section 22 rules will not create an undue burden on inter-market competition because other markets today such as Nasdaq Phlx LLC lists FCOs.[7]

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[8] and subparagraph (f)(6) of Rule 19b–4 thereunder.[9]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ISE–2018–91 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–2018–91. This file

[3] Securities Exchange Act Release No. 55575 (April 3, 2007), 72 FR 17963 (April 10, 2007) (SR–ISE–2006–59).

[4] Specifically, the last expiration was for the Canadian dollar option with a symbol of ''CDD'' on January 19, 2018.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] *See* Phlx Rule 1009.

[8] 15 U.S.C. 78s(b)(3)(A)(iii).

[9] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

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–2018–91 and should be submitted on or before November 28, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–24304 Filed 11–6–18; 8:45 am]

BILLING CODE 8011–01–P

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: Notice is hereby given, pursuant to the provisions of the Government in Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission Investor Advisory Committee will hold a telephonic meeting on Wednesday, November 7, 2018.

PLACE: The meeting will be open to the public *via* telephone at 1–800–260–0702, participant code 455778.

STATUS: This meeting will begin at 2:00 p.m. (ET) and conclude at 3:30 p.m. and will be open to the public *via* telephone. The meeting will be webcast by audio-only on the Commission's website at *www.sec.gov.*

MATTERS TO BE CONSIDERED: On October 17, 2018, the Commission issued notice of the Committee meeting (Release No. 33–10568), indicating that the meeting is open to the public *via* telephone, and inviting the public to submit written comments to the Committee. This Sunshine Act notice is being issued because a quorum of the Commission may attend the meeting. The duty officer determined that no earlier notice of this Meeting was practicable.

The agenda for the meeting includes: Welcome remarks; a discussion of the Commission's Proposed Regulation Best Interest and Proposed Form CRS Relationship Summary (including a recommendation of the Investor as Purchaser subcommittee).

CONTACT PERSON FOR MORE INFORMATION: For further information and to ascertain what, if any, matters have been added, deleted or postponed; please contact Brent J. Fields from the Office of the Secretary at (202) 551–5400.

Dated: November 2, 2018.

Brent J. Fields,

Secretary.

[FR Doc. 2018–24405 Filed 11–5–18; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84517; File No. SR–NYSEArca-2018–54]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To Amend Commentary .01 to NYSE Arca Rule 8.600–E Relating to Certain Generic Listing Standards for Managed Fund Shares

November 1, 2018.

I. Introduction

On July 18, 2018, NYSE Arca, Inc. (''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend certain generic listing standards for Managed Fund Shares. The proposed rule change was published for comment in the **Federal Register** on August 7, 2018.[3] On September 19, 2018, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change.[5] The Commission has received no comment letters on the proposed rule change. This order institutes proceedings pursuant to Section 19(b)(2)(B) of the Act[6] to determine whether to approve or disapprove the proposed rule change.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Description of the Proposed Rule Change[7]

Commentary .01 to NYSE Arca Rule 8.600–E sets forth the generic listing standards for Managed Fund Shares. The Exchange proposes to amend Commentaries .01(a) and (b) to NYSE Arca Rule 8.600–E as described below.

A. Proposed Amendments to Commentary .01(a) to NYSE Arca Rule 8.600–E

Commentary .01(a) to NYSE Arca Rule 8.600–E sets forth the generic listing standards applicable to equity securities[8] in the portfolio of a series of Managed Fund Shares.

1. Proposed Amendments to Commentary .01(a)(2) to NYSE Arca Rule 8.600–E

Commentary .01(a)(2) to NYSE Arca Rule 8.600–E sets forth the generic listing standards applicable to Non-U.S. Component Stocks[9] in the portfolio of

[3] *See* Securities Exchange Act Release No. 83759 (August 1, 2018), 83 FR 38753 (''Notice'').

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 84195, 83 FR 48474 (September 25, 2018). The Commission designated November 5, 2018 as the date by which the Commission shall approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change.

[6] 15 U.S.C. 78s(b)(2)(B).

[7] For a full description of the proposed rule change, *see* Notice, *supra* note 3.

[8] Commentary .01(a) to NYSE Arca Rule 8.600–E provides that equity securities include the following: U.S. Component Stocks (as described in NYSE Arca Rule 5.2–E(j)(3)); Non-U.S. Component Stocks (as described in NYSE Arca Rule 5.2–E(j)(3)); Derivative Securities Products (*i.e.*, Investment Company Units and securities described in Section 2 of NYSE Arca Rule 8–E); and Index-Linked Securities that qualify for Exchange listing and trading under NYSE Arca Rule 5.2–E(j)(6).

[9] NYSE Arca Rule 5.2–E(j)(3) defines Non-U.S. Component Stock to mean an equity security that is not registered under Sections 12(b) or 12(g) of the Act and that is issued by an entity that (a) is not organized, domiciled or incorporated in the United States, and (b) is an operating company (including Real Estate Investment Trusts and income trusts,

Continued

a series of Managed Fund Shares. Commentary .01(a)(2)(A) currently provides that Non-U.S. Component Stocks each shall have a minimum market value of at least $100 million. The Exchange proposes to amend Commentary .01(a)(2)(A) to provide that Non-U.S. Component Stocks ''that in the aggregate account for at least 90% of the weight of the Non-U.S. Component Stocks of the equity portion of a portfolio'' each shall have a minimum market value of at least $100 million. Commentary .01(a)(2)(B) currently provides that Non-U.S. Component Stocks each shall have a minimum global monthly trading volume of 250,000 shares, or minimum global notional volume traded per month of $25,000,000, averaged over the last six months. The Exchange proposes to amend Commentary .01(a)(2)(B) to provide that Non-U.S. Component Stocks ''that in the aggregate account for at least 70% of the weight of the Non-U.S. Component Stocks of the equity portion of a portfolio'' each shall have a minimum global monthly trading volume of 250,000 shares, or minimum global notional volume traded per month of $25,000,000, averaged over the last six months.

2. Proposed New Commentary .01(a)(3) to NYSE Arca Rule 8.600–E

The Exchange proposes to add new Commentary .01(a)(3) to NYSE Arca Rule 8.600–E, which would provide that the portfolio of a series of Managed Fund Shares may include non-exchange-traded open-end management investment company securities,[10] and such securities would be excluded from the equity portion of the portfolio for purposes of meeting the criteria in Commentary .01(a)(1).

B. Proposed Amendment to Commentary .01(b)(5) to NYSE Arca Rule 8.600–E

Commentary .01(b) to NYSE Arca Rule 8.600–E sets forth the generic listing standards applicable to fixed income securities [11] in the portfolio of a series of Managed Fund Shares. Commentary .01(b)(5) currently provides that non-agency, non-GSE and privately-issued mortgage-related and other asset-backed securities components of a portfolio shall not account, in the aggregate, for more than 20% of the weight of the fixed income portion of the portfolio. The Exchange proposes to amend Commentary .01(b)(5) by deleting the reference to the ''fixed income portion'' of the portfolio, such that non-agency, non-GSE and privately-issued mortgage-related and other asset-backed securities components of a portfolio could not account, in the aggregate, for more than 20% of the weight of the whole portfolio.

III. Proceedings To Determine Whether To Approve or Disapprove SR–NYSEArca-2018–54 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act [12] to determine whether the proposed rule change should be approved or disapproved. Institution of proceedings is appropriate at this time in view of the legal and policy issues raised by the proposal. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, as described below, the Commission seeks and encourages interested persons to provide comments on the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Act,[13] the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of the proposal's consistency with Section 6(b)(5) of the Act,[14] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and to protect investors and the public interest.

The Commission asks that commenters address the sufficiency of the Exchange's statements in support of the proposal, which are set forth in the Notice,[15] in addition to any other comments they may wish to submit about the proposal. In particular, the Commission seeks comment regarding whether the proposal would result in the listing and trading of Managed Fund Shares that are susceptible to manipulation.

As discussed above, the Exchange proposes to amend Commentary .01(a)(2)(A) to NYSE Arca Rule 8.600–E to apply the minimum market value requirement to 90% (rather than 100%) of the weight of the Non-U.S. Component Stocks of the equity portion of the portfolio. The Exchange also proposes to amend Commentary .01(a)(2)(B) to apply the trading volume (shares and notional volume) requirement to 70% (rather than 100%) of the weight of the Non-U.S. Component Stocks of the equity portion of the portfolio.[16] The Exchange states that these amended provisions would be comparable to the current numerical requirements in Commentaries .01(a)(B)(1) and (2) to NYSE Arca Rule 5.2–E(j)(3), which apply to component stocks of an index or portfolio underlying a series of Investment Company Units.[17] The Exchange also states that, like the requirements applicable to Investment Company Units, a substantial portion of the Non-U.S. Component Stocks in the Managed Fund Shares portfolio would be subject to the minimum liquidity and market value requirements.[18] The Exchange additionally states that Non-U.S. Component Stocks would continue to be subject to the weighting and diversification requirements under Commentaries .01(a)(2)(C) and (D) to NYSE Arca Rule 8.600–E.[19]

The Commission seeks comment regarding the sufficiency of the Exchange's statements in support of these aspects of the proposal. The

but excluding investment trusts, unit trusts, mutual funds, and derivatives).

[10] For purposes of proposed Commentary .01(a)(3), non-exchange-traded open-end management investment company securities would not include money market funds, which the Exchange states are cash equivalents under Commentary .01(c) to NYSE Arca Rule 8.600–E and for which there is no limitation in the percentage of the portfolio invested in such securities. *See* Notice, *supra* note 3, at 38754.

[11] Commentary .01(b) to NYSE Arca Rule 8.600–E provides that fixed income securities are debt securities that are notes, bonds, debentures or evidence of indebtedness that include, but are not limited to, U.S. Department of Treasury securities, government-sponsored entity (''GSE'') securities, municipal securities, trust preferred securities, supranational debt and debt of a foreign country or a subdivision thereof, investment grade and high yield corporate debt, bank loans, mortgage and asset backed securities, and commercial paper.

[12] 15 U.S.C. 78s(b)(2)(B).

[13] *Id.*

[14] 15 U.S.C. 78f(b)(5).

[15] *See supra* note 3.

[16] According to the Exchange, these proposals would provide additional flexibility to Managed Fund Shares investing in Non-U.S. Component Stocks. *See* Notice, *supra* note 3, at 38754.

[17] *See id.* at 38753.

[18] *See id.* at 38753–54.

[19] *See id.* at 38754. Commentary .01(a)(2)(C) requires that the most heavily weighted Non-U.S. Component stock not exceed 25% of the equity weight of the portfolio and, to the extent applicable, the five most heavily weighted Non-U.S. Component Stocks not exceed 60% of the equity weight of the portfolio. Commentary .01(a)(2)(D) requires that, where the equity portion of the portfolio includes Non-U.S. Component Stocks, the equity portion of the portfolio include a minimum of 20 component stocks; provided, however, that there shall be no minimum number of component stocks if (i) one or more series of Derivative Securities Products or Index-Linked Securities constitute, at least in part, components underlying a series of Managed Fund Shares, or (ii) one or more series of Derivative Securities Products or Index-Linked Securities account for 100% of the equity weight of the portfolio of a series of Managed Fund Shares.

Commission also notes that while the proposed numerical percentage thresholds (*i.e.,* 90% and 70%) would be the same as those in Commentaries .01(a)(B)(1) and (2) to NYSE Arca Rule 5.2–E(j)(3), the proposed numerical percentage thresholds would be applied differently from those in Commentaries .01(a)(B)(1) and (2) to NYSE Arca Rule 5.2–E(j)(3). Specifically, the proposal would measure the Non-U.S. Component Stocks that meet the specified quantitative listing standards as a percentage of the Non-U.S. Component Stocks portion of the portfolio. However, Commentaries .01(a)(B)(1) and (2) to NYSE Arca Rule 5.2–E(j)(3) measure the component stocks that meet the specified quantitative listing standards as a percentage of the U.S. and Non-U.S. Component Stocks portions of the index or portfolio.[20]

As discussed above, the Exchange proposes to add new Commentary .01(a)(3) to NYSE Arca Rule 8.600–E to permit Managed Fund Shares to hold non-exchange-traded open-end management investment company securities, and to exclude these securities from the equity portion of the portfolio for purposes of meeting the criteria in Commentary .01(a)(1).[21] The Exchange argues that, because these securities must satisfy the applicable Investment Company Act of 1940 (''1940 Act'') diversification requirements, and have a net asset value based on the value of securities and financial instruments the investment company holds, it is both unnecessary and inappropriate to apply to such investment company securities the criteria in Commentary .01(a)(1).[22] The Exchange also asserts that it would be difficult or impossible to apply to mutual fund shares certain of the generic quantitative criteria in Commentaries .01(a)(1)(A) through (D).[23] Moreover, the Exchange states that Commentaries .01(a)(1)(A) through (D) exclude certain ''Derivative Securities Products'' that are exchange-traded investment company securities.[24]

The Commission seeks comment regarding the sufficiency of the Exchange's statements in support of this aspect of the proposal. The Commission notes that, as proposed, the portfolios of generically-listed Managed Fund Shares could be composed of non-exchange-traded open-end managed investment company securities that do not meet the listing standards under Commentary .01(a)(1).[25] In addition, as proposed, non-exchange-traded open-end management investment company securities would not include money market funds, which the Exchange states are cash equivalents under Commentary .01(c) to NYSE Arca Rule 8.600–E. However, the Commission notes that ''cash equivalents'' is defined under Commentary .01(c) to include short-term instruments ''with maturities of less than 3 months.'' Moreover, while there are currently exceptions for Derivative Securities Products under Commentaries .01(a)(1)(A) through (D), unlike non-exchange-traded open-end management investment company securities, Derivative Securities Products are listed on U.S. national securities exchanges.[26]

Finally, as discussed above, the Exchange proposes to amend Commentary .01(b)(5) to NYSE Arca Rule 8.600–E to permit portfolios of Managed Fund Shares to potentially hold more non-agency, non-GSE and privately-issued mortgage-related and other asset-backed securities (*i.e.*, no more than 20% of the weight of the whole portfolio) than is currently permitted (*i.e.*, no more than 20% of the weight of the fixed income portion of the portfolio).[27] The Exchange states that such investments would be subject to the liquidity procedures adopted by a fund's board of directors.[28] The Commission seeks comment regarding the sufficiency of the Exchange's statements in support to this aspect of the proposal.

IV. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposed rule change is consistent with Section 6(b)(5) or any other provision of the Act, or the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4 under the Act,[29] any request for an opportunity to make an oral presentation.[30]

Interested persons are invited to submit written data, views, and arguments regarding whether the proposal should be approved or disapproved by November 28, 2018. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by December 12, 2018.

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

[20] Derivative Securities Products are excluded from Commentaries .01(a)(B)(1) and (2) to NYSE Arca Rule 5.2–E(j)(3).

[21] According to the Exchange, these securities may be utilized, for example, to obtain income on short-term cash balances while awaiting attractive investment opportunities, to provide liquidity in preparation for anticipated redemptions, or for defensive purposes. *See* Notice, *supra* note 3, at 38754. The Exchange states that these securities may include mutual funds that invest principally in securities and financial instruments that help the fund meet its investment objective or equitize cash in the short term. *See id.*

[22] *See id.* The Exchange also notes that the Commission has previously approved the listing and trading of series of Managed Fund Shares that may invest in non-exchange-traded investment company securities to the extent permitted by Section 12(d)(1) of the 1940 Act and the rules thereunder. *See id.*

[23] *See id.* at 38755. The Exchange states that, for example, the requirements in Commentary .01(a)(1)(B) that there be minimum monthly trading volume of 250,000 shares, or minimum notional volume traded per month of $25,000,000, averaged over the last six months, are tailored to exchange-traded securities and not to mutual fund shares, which do not trade in the secondary market and for which no such volume information is reported. *See id.* The Exchange also states that it would not be appropriate to apply Commentaries .01(a)(1)(A), (C), and (D) to open-end management investment company securities, and that open-end investment companies hold multiple individual securities as disclosed publicly in accordance with the 1940 Act. *See id.*

[24] The Exchange states that ''Derivative Securities Products'' includes Investment Company Units, Portfolio Depositary Receipts, and Managed Fund Shares. *See id.* at 38754.

[25] These include, for example, requirements for minimum market value, minimum monthly trading volume, minimum notional volume traded per month, and diversification.

[26] *See* Commentary .01(a) to NYSE Arca Rule 8.600–E (defining Derivative Securities Products to mean Investment Company Units and securities described in Section 2 of NYSE Arca Rule 8–E).

[27] The Exchange states that these investments could provide a fund with increased diversification because they may be less correlated to interest rates than many other fixed income securities. *See* Notice, *supra* note 3, at 38754.

[28] *See id.* The Exchange also states that the Commission has previously approved the listing of actively managed exchange-traded funds that can invest 20% of their total assets in non-U.S. Government, non-agency, non-GSE and other privately issued asset-backed and mortgage-backed securities. *See id.*

[29] 17 CFR 240.19b–4.

[30] Section 19(b)(2) of the Act, as amended by the Securities Acts Amendments of 1975, Public Law 94–29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Acts Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

• Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2018–54 on the subject line.

Paper Comments

• Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2018–54. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2018–54 and should be submitted by November 28, 2018. Rebuttal comments should be submitted by December 12, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[31]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–24305 Filed 11–6–18; 8:45 am]

BILLING CODE 8011–01–P

[31] 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84519; File No. SR–MIAX–2018–27]

Self-Regulatory Organizations; Miami International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 515A, MIAX Price Improvement Mechanism ("PRIME") and PRIME Solicitation Mechanism, and Rule 518, Complex Orders

November 1, 2018.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 24, 2018, Miami International Securities Exchange, LLC ("MIAX Options" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change as described in Items I, 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 is filing a proposal to amend Rule 515A, MIAX Price Improvement Mechanism ("PRIME") and PRIME Solicitation Mechanism, and Rule 518, Complex Orders [sic] The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings/* at MIAX Options' principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 515A, MIAX Price Improvement Mechanism ("PRIME") and PRIME Solicitation Mechanism, Interpretations and Policies .12, to clarify and organize existing rule text for ease of reference and to adopt new rule text to describe additional scenarios which cause a cPRIME Auction [3] to terminate early. The Exchange also proposes to amend Rule 518, Interpretations and Policies .05(f), to add additional detail pertaining to the operation of the Complex MIAX Price Collar ("MPC"), specifically to adopt new rule text for the use of a Temporary MIAX Price Collar ("TMPC") during a cPRIME Auction or Complex Auction [4] in the limited instance when an MPC has not been assigned. The Exchange notes that its proposal does not introduce any new functionality and is designed to codify existing functionality to add additional detail and clarity to the Exchange's rules.

The Exchange proposes to amend Rule 515A, Interpretations and Policies .12, PRIME for Complex Orders. The current rule provides that, ". . . the provisions of Rule 515A(a) . . . shall be applicable to the trading of complex orders (as defined in Rule 518) on PRIME. The Exchange will determine, on a class-by-class basis, the option classes in which complex orders are available for trading on PRIME on the Exchange, and will announce such classes to Members [5] via Regulatory Circular." The Exchange now proposes to replace the word "on" which precedes "PRIME" with the phrase "in the" to more accurately describe Exchange functionality and maintain consistency with how the functionality is described in other areas of the rule.[6]

The Exchange also proposes to amend Rule 515A, Interpretations and Policies .12(d), to organize the rule for clarity

[3] Members may use PRIME to execute complex orders at a net price. "cPRIME" is the process by which a Member may electronically submit a cPRIME Order (as defined in Rule 518(b)(7)) it represents as agent (a "cPRIME Agency Order") against principal or solicited interest for execution (a "cPRIME Auction"). *See* Exchange Rule 515A, Interpretations and Policies .12(a).

[4] *See* Exchange Rule 518(d).

[5] The term "Member" means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed "members" under the Exchange Act. *See* Exchange Rule 100.

[6] *See* Exchange Rule 515A.01, 515A.03, 515A.04, and 515A.05, which references usage of "the PRIME."

and ease of reference and to codify two additional scenarios to new proposed subsections (d)(vi) and (d)(vii) describing conditions which will terminate a cPRIME Auction. Specifically, the Exchange proposes to consolidate current subsection (d)(v) and current subsection (d)(vi) into new subsection (d)(v). Current subsection (d)(v) provides that a cPRIME Auction will terminate if, ''a simple order or quote in a component of the strategy on the same side of the market as the cPRIME Agency Order locks or crosses the NBBO[7] for such component.'' Current subsection (d)(vi) similarly provides that a cPRIME Auction will terminate if, ''a simple order or quote in a component of the strategy on the opposite side of the market as the cPRIME Agency Order: (A) locks or crosses the NBBO for such component. . . .''

The Exchange now proposes to combine subsection (d)(v) and (d)(vi) into a single rule under new subsection (d)(v) that provides that a cPRIME Auction will terminate if, ''a simple order or quote in a component of the strategy on either side of the market as the cPRIME Agency Order locks or crosses the NBBO for such component;''. The proposed change simplifies the rule text and clarifies two similar scenarios that will terminate a cPRIME Auction when interest is received on either side of the market as the cPRIME Agency Order. The Exchange believes that the proposed changes promote the protection of investors and the public interest by improving the accuracy and precision of the Exchange's rules.

Additionally, the Exchange proposes to adopt new subsections (d)(vi) and (d)(vii) to include additional scenarios that will cause a cPRIME Auction to terminate when interest is received on the same or opposite side of the market, respectively, as the cPRIME Agency Order. Specifically, proposed subsection (d)(vi) will provide that a cPRIME Auction shall conclude at the earlier of the end of the RFR period,[8] or when, ''a simple order or quote in a component of the strategy, eligible to rest on the Simple Order Book,[9] is received on the same side of the market as the cPRIME Agency Order and causes the icMBBO[10] to lock or cross the best price opposite the cPRIME Agency Order;'' This provision ensures that a cPRIME Agency Order will always receive the best price[11] on the Exchange while simultaneously preserving the integrity of the simple market by preventing orders executed in a cPRIME Auction from possibly trading through the Exchange's simple market.

An example of this scenario is illustrated below.

Example 1—A Simple Order or Quote on the Same Side as the Agency Order Causes the icMBBO to Equal the Best Price Opposite the Agency Order

MIAX—LMM[12] Mar 50 Call 5.80–6.30 (10x10)
MIAX—LMM Mar 55 Call 2.90–3.30 (10x10)

Strategy: Buy 1 Mar 50 Call, Sell 1 Mar 55 Call.

The icMBBO is 2.50 debit bid and 3.40 credit offer.

The Exchange receives a cPRIME Order with the cPRIME Agency Order representing the purchase of the Strategy at a net debit of 3.00, 500 times. (Auto-match is not enabled and there are no orders for the Strategy on the Strategy Book.)[13]

Since the order price is at least $0.01 better than (inside) the icMBBO and the best net price of any order for the Strategy on the Strategy Book, a cPRIME Auction can begin.

A Request for Responses (''RFR'') is broadcast to all subscribers and the RFR period is started.

The following responses are received:

- @50 milliseconds BD1 response, cAOC Order[14] @2.95 credit sell of 100 arrives
- @70 milliseconds MM1 response, cAOC eQuote[15] @2.98 credit sell of 500 arrives

The cPRIME Auction process will continue until the Response Time Interval[16] ends or an event eligible to cause the cPRIME Auction to end sooner occurs.

- @85 milliseconds a simple order bid to pay 6.25 for 10 MAR 50 Calls arrives

The icMBBO is now 2.95 debit bid and 3.40 credit offer. Since the bid side of the icMBBO is now equal to the best price opposite the Agency Order [BD1 response, 2.95 credit sell of 100], the cPRIME Auction is concluded prior to the end of the Response Time Interval.

The cPRIME Auction process will trade the cPRIME Agency Order with the best priced responses. The cPRIME Agency order will be filled as follows:[17]

- The cPRIME Agency Order buys 100 from BD1 @2.95
- The cPRIME Agency Order buys 400 from MM1 @2.98

Similarly, proposed subsection (d)(vii) will provide that a cPRIME Auction shall conclude at the earlier of the end of the RFR period or if, ''a simple order or quote in a component of the strategy, eligible to rest on the Simple Order Book, is received on the opposite side of the market from the cPRIME Agency Order and Order Book and causes the icMBBO to lock or cross the initiating price.'' This provision ensures that a cPRIME Agency Order will always receive the best price on the Exchange while simultaneously preserving the integrity of the simple market by preventing orders executed in a cPRIME Auction from possibly trading through the Exchange's simple market.

An example of this scenario is illustrated below.

Example 2—A Simple Order or Quote on the Opposite Side From the Agency Order Causes the icMBBO to Equal the Initiating Price

MIAX—LMM Mar 50 Call 5.80–6.30 (10x10)
MIAX—LMM Mar 55 Call 2.90–3.30 (10x10)

Strategy: Buy 1 Mar 50 Call, Sell 1 Mar 55 Call.

The icMBBO is 2.50 debit bid and 3.40 credit offer.

The Exchange receives a cPRIME Order with the cPRIME Agency Order representing the purchase of the Strategy at a net debit of 3.00, 500 times. (Auto-match is not enabled and there are no orders for the Strategy on the Strategy Book.)

Since the order price is at least $0.01 better than (inside) the icMBBO and the best net price of any order for the Strategy on the Strategy Book, a cPRIME Auction can begin.

An RFR is broadcast to all subscribers and the RFR period is started.

The following responses are received:

- @40 milliseconds BD1 response, cAOC Order @2.95 credit sell of 100 arrives

[7] The term ''NBBO'' means the national best bid or offer as calculated by the Exchange based on market information received by the Exchange from OPRA. *See* Exchange Rule 100.

[8] *See* Exchange Rule 515A.12(d)(i).

[9] The term ''Simple Order Book'' is the Exchange's regular electronic book of orders and quotes. *See* Exchange Rule 518(a)(15).

[10] The term ''icMBBO'' means the Implied Complex MIAX Best Bid or Offer. The icMBBO is a calculation that uses the best price from the Simple Order Book for each component of a complex strategy including displayed and non-displayed trading interest. *See* Exchange Rule 518(a)(11).

[11] The best price for an Agency Order to buy (sell) is the lowest offer (highest bid) on the Exchange, comprised of all available interest.

[12] The term ''Lead Market Maker'' means a Member registered with the Exchange for the purposes of making markets in securities traded on the Exchange and that is vested with the rights and responsibilities specified in Chapter VI of the Exchange's Rules with respect to Lead Market Makers. *See* Exchange Rule 100.

[13] The term ''Strategy Book'' is the Exchange's electronic book of complex orders and complex quotes. *See* Exchange Rule 518(a)(17).

[14] A Complex Auction-or-Cancel or ''cAOC'' order is a complex limit order used to provide liquidity during a specific Complex Auction with a time in force that corresponds with that event. cAOC orders are not displayed to any market participant, and are not eligible for trading outside of the event. *See* Exchange Rule 518(b)(3).

[15] A ''Complex Auction or Cancel eQuote'' or ''cAOC eQuote,'' which is an eQuote submitted by a Market Maker that is used to provide liquidity during a specific Complex Auction with a time in force that corresponds with the duration of a Complex Auction. *See* Exchange Rule 518.02(c)(1).

[16] The ''Response Time Interval'' means the period of time during which responses to the RFR may be entered. *See* Exchange Rule 518(d)(3).

[17] *See* Exchange Rule 515A(a)(2)(iii).

- @50 milliseconds MM1 response, cAOC eQuote @2.98 credit sell of 500 arrives

The cPRIME Auction process will continue until the Response Time Interval ends or an event eligible to cause the cPRIME Auction to end sooner occurs.

- @75 milliseconds a simple order offer to sell 10 MAR 50 Calls @5.90 arrives

The icMBBO is now 2.50 debit bid and 3.00 credit offer. Since the offer side of the icMBBO is now equal to the initiating price, the cPRIME Auction is concluded prior to the end of the Response Time Interval.

The cPRIME Auction process will trade the cPRIME Agency Order with the best priced responses. The cPRIME Agency order will be filled as follows:

- The cPRIME Agency Order buys 100 from BD1 @2.95
- The cPRIME Agency Order buys 400 from MM1 @2.98

The Exchange believes that terminating a cPRIME Auction when these conditions are present ensures that the execution of the cPRIME Agency Order improves the best price on the Exchange at the time of receipt, and that there is no interference between the simple and complex markets. (The System will reject cPRIME Agency Orders submitted with an initiating price that is equal to or worse than (outside) the icMBBO or any other complex orders on the Strategy Book.) [18] This provision ensures that a cPRIME Agency Order will always receive the best price on the Exchange while simultaneously preserving the integrity of the simple market by preventing orders executed in a cPRIME Auction from possibly trading through the Exchange's simple market. The Exchange believes that including these scenarios in the rules will provide additional detail concerning the operation of cPRIME Auctions and the conditions which will terminate a cPRIME Auction. The Exchange believes that the proposed changes will provide greater clarity to Members and the public regarding the Exchange's Rules, and it is in the public interest for rules to be accurate and concise so as to minimize the potential for confusion.

The Exchange also proposes to amend Rule 518, Interpretations and Policies .05, to add additional detail to the rule regarding the establishment of the MIAX Price Collar (''MPC'') under various circumstances. The MPC is a price protection feature designed to help maintain a fair and orderly market by helping to mitigate the potential risk of executions at prices that are extreme and potentially erroneous. The MPC prevents complex orders from automatically executing at potentially erroneous prices by establishing a price range outside of which a complex order will not be executed.

The Exchange now proposes to amend Rule 518, Interpretations and Policies .05, by removing current subsection (f)(3) and replacing it with new proposed subsections (f)(3), (f)(4) and (f)(5), current subsection (f)(4) will remain intact and become new subsection (f)(6), and current subsection (f)(5) will remain intact and become new subsection (f)(7). New subsection (f)(3) will provide that, ''[t]he MPC Price is established: (i) Upon receipt of the complex order or eQuote during free trading, or (ii) if the complex order or eQuote is not received during free trading, at the opening (or reopening following a halt) of trading in the complex strategy; or (iii) upon evaluation of the Strategy Book by the System when a wide market condition, as described in Interpretations and Policies .05(e)(1) of this Rule, no longer exists.'' [19]

New subsection (f)(5) will provide that, ''[a] Temporary MPC Price ('TMPC Price') is established solely for use during a Complex Auction (as defined in Rule 518(d)) or a cPRIME Auction (as defined in Rule 515A, Interpretations and Policies .12) for (i) any complex order resting on the Strategy Book that does not have an MPC assigned and is eligible to participate in a Complex Auction or a cPRIME Auction in that strategy; or (ii) any complex order or eQuote received during a cPRIME Auction [20] if a wide market condition existed in a component of the strategy at the start of the cPRIME Auction. The TMPC Price shall be the auction start price [21] (the auction start price of a cPRIME Agency Order for a cPRIME Auction is defined in Rule 515A.12(a)(i) and the auction start price for a Complex Auction is defined in Rule 518(d)(1)) plus (minus) the MPC Setting [22] if the order is a buy (sell). If the complex order or eQuote eligible to participate in the Complex Auction or cPRIME Auction is priced more aggressively than the TMPC Price (*i.e.,* the complex order or eQuote price is greater than the TMPC Price for a buy order, or the complex order or eQuote price is lower than the TMPC Price for a sell order) the complex order or eQuote may participate in the auction but will not trade through its TMPC Price.'' The minimum MPC Setting is $0.00 and the maximum MPC Setting is $1.00, as determined by the Exchange and communicated to Members via Regulatory Circular.[23] A TMPC Price will be calculated for use during the length of the auction for any complex order resting on the Strategy Book that does not have an MPC assigned and is eligible to participate in a Complex Auction or cPRIME Auction in that strategy, or any complex order or eQuote received during a cPRIME Auction if a wide market condition existed in a component of the strategy at the start of the cPRIME Auction.

An example of the TMPC Price being established and used is provided below.

Example 3—A TMPC Price Is Established for an Order or eQuote Received During a cPRIME Auction

MIAX—LMM Mar 50 Call 1.00–6.50 (10x10) (Wide Market)
MIAX—LMM Mar 55 Call 2.90–3.30 (10x10)
ABBO—Mar 50 Call 6.00–6.30 (10x10)
ABBO—Mar 55 Call 3.00–3.30 (10x10)
NBBO—Mar 50 Call 6.00–6.30 (10x10)
NBBO—Mar 55 Call 3.00–3.30 (10x20)

Strategy: Buy 1 Mar 50 Call, Sell 1 Mar 55 Call

The cNBBO is 2.70 debit bid and 3.30 credit offer

The MPC Setting is $.25.

The Exchange receives a cPRIME Order with the cPRIME Agency Order representing the purchase of the Strategy at a net debit of 3.00, 500 times. Auto-match is not enabled and there are no orders for the Strategy on the Strategy Book.

A TMPC Price will be calculated for use during the length of the auction for any complex order or eQuote received during a cPRIME Auction if a wide market condition existed in a component of the strategy at the start of the cPRIME Auction. The TMPC Price will be the cPRIME auction start price +/− the MPC Setting. In this example the auction start price is $3.00. The TMPC Price is $2.75 ($3.00 − $.25) for sell orders, and $3.25 ($3.00 + $.25) for buy orders.

An RFR is broadcast to all subscribers and the RFR period is started.

The following responses are received:

[18] *See* Exchange Rule 515 A, Interpretations and Policies .12(a)(i).

[19] The Exchange notes that if wide market conditions exist (any individual option component of a complex strategy has a displayed MBBO quote width that is wider than the permissible simple market quote width) when an order is received, an MPC will not be calculated until the wide market conditions are resolved. *See* Exchange Rule 518.05(e)(1).

[20] The Exchange notes that if a wide market condition exists for a component of a complex strategy, trading in the strategy will be suspended, except as otherwise set forth in Exchange Rule 518.05(e)(1)(iii), which states that a wide market condition shall have no impact on the trading of cPRIME Orders and processing of cPRIME Auctions (including the processing of cPRIME Auction responses) pursuant to Rule 515A, Interpretations and Policies .12. *See* Exchange Rule 518.05(e)(1)(i).

[21] The auction start price for a cPRIME Auction is the initiating price of a cPRIME Agency Order as described in Exchange Rule 515A.12(a)(i). The auction start price for a Complex Auction is the initiating order's limit price as described in Exchange Rule 518(d)(1).

[22] *See* Exchange Rule 518.05(f).

[23] *See* Exchange Rule 518.05(f)(2). The Exchange notes the current setting is $.25.

- @ 20 milliseconds BD1 response, cAOC Order @ 2.95 credit sell of 200 arrives
- @ 30 milliseconds MM1 response, cAOC eQuote @ 2.90 credit sell of 200 arrives
- @ 50 milliseconds C1 response, cAOC Order @ 2.70 credit sell of 100 arrives

The cPRIME Auction process will continue until the Response Time Interval ends. When the 100 millisecond Response Time Interval ends, the cPRIME Auction process will trade the Agency Order with the best priced responses. The Agency Order will be filled as follows:

- The cPRIME Agency Order buys 100 from C1 @ 2.75
- The cPRIME Agency Order buys 200 from MM1 @ 2.90
- The cPRIME Agency Order buys 200 from BD1 @ 2.95

Note that C1 is prevented from selling at 2.70 by the cPRIME Auction TMPC Price limit of 2.75.

The Exchange believes that amending the rule to codify the use of a TMPC Price, which is applicable only in the limited circumstance when an MPC has not been assigned, and exists only for the duration of a Complex Auction or cPRIME Auction, adds additional detail to the Exchange's rules and provides greater transparency of Exchange functionality. The use of a TMPC Price provides protection for orders that participate in either a Complex Auction or a cPRIME Auction when the order does not have an assigned MPC Price as described above. This price protection ensures that orders are not executed at potentially erroneous prices during the auction. The Exchange believes that the proposed changes promote the protection of investors and the public interest by providing greater clarity and specificity of Exchange functionality, and it is in the public interest for the Exchange's rules to be accurate and concise so as to minimize the potential for confusion.

2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b) of the Act [24] in general, and furthers the objectives of Section 6(b)(5) of the Act [25] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes the proposed changes promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system because they seek to add additional detail to, and improve the accuracy of, the Exchange's rules. In particular, the Exchange believes that the proposed rule changes will provide clarity and transparency of the Exchange's rules to Members and the public, and it is in the public interest for rules to be accurate and concise so as to minimize the potential for confusion.

Additionally, the Exchange believes that including additional scenarios which will terminate a cPRIME Auction promotes just and equitable principles of trade and removes impediments to a free and open market by providing greater transparency concerning the operation of Exchange functionality. This provision ensures that a cPRIME Agency Order will always receive the best price on the Exchange while simultaneously preserving the integrity of the simple market.

Further, the Exchange believes that providing a TMPC Price during a Complex Auction or a cPRIME Auction protects investors against executions at potentially erroneous prices. Additionally, the Exchange believes that adding additional detail to the Exchange's rules regarding the operation of MIAX Options Price Collars, and including the method of calculating a TMPC Price for the limited circumstances when one is used, promotes just and equitable principles of trade and removes impediments to a free and open market by providing greater transparency concerning the operation of Exchange functionality.

B. Self-Regulatory Organization's Statement on Burden on Competition

MIAX Options does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange's proposal is not designed to address any competitive issues. As discussed above the proposal is designed to make minor non substantive corrections to the rule text and to organize rule text in a fashion that makes it easier to read and understand. The changes to the Exchange rules concerning the use of a TMPC Price, and the addition of new scenarios which will terminate a cPRIME Auction, are designed to add additional detail to the rules to further clarify the operation of Exchange functionality and to minimize the potential for confusion.

Additionally, the Exchange does not believe the proposed rule change will impose any burden on intra-market competition as the Rules apply equally to all Members of the Exchange.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the 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 after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act [26] and Rule 19b–4(f)(6) [27] thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–MIAX–2018–27 on the subject line.

[24] 15 U.S.C. 78f(b).

[25] 15 U.S.C. 78f(b)(5).

[26] 15 U.S.C. 78s(b)(3)(A).

[27] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

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–MIAX–2018–27. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MIAX–2018–27 and should be submitted on or before November 28, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–24307 Filed 11–6–18; 8:45 am]

BILLING CODE 8011–01–P

[28] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84523; File No. SR–CboeBZX–2018–018]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To List and Trade Shares of the Principal Morley Short Duration Index ETF Under Rule 14.11(c)(4)

November 1, 2018.

On April 23, 2018, Cboe BZX Exchange, Inc. (''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares of the Principal Morley Short Duration Index ETF. The proposed rule change was published for comment in the **Federal Register** on May 8, 2018.[3] On June 20, 2018, the Commission designated August 6, 2018 as the date by which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change.[4] On August 3, 2018, the Commission instituted proceedings under Section 19(b)(2)(B) of the Act [5] to determine whether to approve or disapprove the proposed rule change.[6] The Commission has received one comment letter on the proposed rule change.[7]

Section 19(b)(2) of the Act [8] provides that, after initiating disapproval proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of filing of the proposed rule change. The Commission may extend the period for issuing an order approving or disapproving the proposed rule change, however, by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. The proposed rule change was published for notice and comment in the **Federal Register** on May 8, 2018. November 4, 2018, is 180 days from that date, and January 3, 2019, is 240 days from that date.

The Commission finds it appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider this proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[9] designates January 3, 2019, as the date by which the Commission shall either approve or disapprove the proposed rule change (File No. SR–CboeBZX–2018–018).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–24311 Filed 11–6–18; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 83152 (May 2, 2018), 83 FR 20892.

[4] *See* Securities Exchange Act Release No. 83479, 83 FR 29838 (June 26, 2018).

[5] 15 U.S.C. 78s(b)(2)(B).

[6] *See* Securities Exchange Act Release No. 83775, 83 FR 39486 (August 9, 2018). The Commission instituted proceedings to allow for additional analysis of the proposed rule change's consistency with Section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange be ''designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade,'' and ''to protect investors and the public interest.'' *See id.* at 39487.

[7] *See* letter from Kyle Murray, Assistant General Counsel, Cboe Global Markets (September 13, 2018), *available at: https://www.sec.gov/comments/sr-cboebzx-2018-018/srcboebzx2018018.htm.*

[8] 15 U.S.C. 78s(b)(2).

[9] *Id.*

[10] 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 83 FR 55210, November 2, 2018.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Tuesday, November 6, 2018.

CHANGES IN THE MEETING: The following matter will also be considered during the 1:30 p.m. Closed Meeting scheduled for Tuesday, November 6, 2018:

Report on an examination

CONTACT PERSON FOR MORE INFORMATION: For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 551–5400.

Dated: November 2, 2018.

Brent J. Fields,

Secretary.

[FR Doc. 2018–24404 Filed 11–5–18; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84518; File No. SR–FINRA–2018–037]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt Rule 9910 Post-Employment Conflict of Interest Restrictions; Nonpublic Information

November 1, 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 24, 2018, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as concerned solely with the administration of the self-regulatory organization under Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(3) thereunder,[4] which renders the proposal effective upon receipt of this filing by 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

FINRA is proposing to adopt Rule 9910 (Post-Employment Conflict of Interest Restrictions; Nonpublic Information) that would prohibit: (1) Any former officer from making certain communications to or appearances before FINRA for one year; (2) any former employee from making certain communications to or appearances before FINRA at any time in a particular matter involving a specific party or parties in which the employee was personally and substantially involved during his or her employment; (3) any former employee from making certain communications to or appearances before FINRA for two years in a particular matter involving a specific party or parties, that was under the employee's official responsibility during the last year of his or her employment; and (4) any current employee from disseminating or disclosing, for a purpose unnecessary to the performance of FINRA job responsibilities, or any former employee from disseminating or disclosing, for any purpose, any nonpublic information obtained in the course of his or her employment with FINRA, unless the disclosure is expressly authorized by FINRA or is required or protected by law.

The text of the proposed rule change is available on FINRA's website at *http://www.finra.org,* at the principal office of FINRA 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, FINRA 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. FINRA 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

FINRA rules prohibit former officers from appearing or providing expert testimony on behalf of any other person in a FINRA proceeding for one year following separation from FINRA.[5] FINRA proposes to adopt restrictions for FINRA officers and employees similar to those that apply to former employees of the SEC. FINRA also proposes to adopt restrictions intended to prohibit current and former FINRA employees from misusing nonpublic FINRA information. In particular, proposed Rule 9910 (Post-Employment Conflict of Interest Restrictions; Nonpublic Information) would prohibit:[6]

- any former officer from making certain communications to or appearances before FINRA for one year from the end of employment;
- any former employee from making certain communications to or appearances before FINRA at any time in a particular matter involving a specific party or parties in which the employee was personally and substantially involved during his or her employment;
- any former employee from making certain communications to or appearances before FINRA for two years in a particular matter involving a specific party or parties, that was under the employee's official responsibility during the last year of his or her employment; and
- any current employee from disseminating or disclosing, for a purpose unnecessary to the performance of FINRA job responsibilities, or a former employee from disseminating or disclosing, for any purpose, any nonpublic information obtained in the course of his or her employment with FINRA, unless the disclosure is expressly authorized by FINRA or is required or protected by law.

1. Expansion of the Prohibition for Former Officers

FINRA prohibits former officers from appearing or providing expert testimony in a FINRA proceeding for one year following separation from FINRA. FINRA proposes to expand this prohibition as follows:[7]

> No former officer of FINRA shall knowingly, with the intent to influence, make any communication[8] to or appearance[9] before a FINRA Governor or employee[10] within one year from the former officer's termination of employment with FINRA, on behalf of any other person in connection with any matter on which the former officer seeks official FINRA action by any Governor or employee of FINRA. A duly authorized FINRA officer may grant reasonable exceptions and waivers from this prohibition consistent with the purposes of the prohibition.

This restriction is modeled on Rule 204(a) of the Post-Employment Conflict of Interest Restrictions under the Ethics in Government Act, which applies, among others, to senior personnel of the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(3).

[5] *See* FINRA Rules 9141(c) and 9242(b).

[6] The proposed rule change also would adopt a new rule series title, specifically Rule Series 9900, Restrictions on Former FINRA Officers and Employees; Nonpublic Information. *See* Exhibit 5.

[7] *See* proposed FINRA Rule 9910(a).

[8] For purposes of Rule 9910, ''communication'' would mean the imparting or transmitting of information of any kind, including facts, opinions, ideas, questions or direction, to a FINRA Governor or employee, whether orally, in written correspondence, by electronic media, or by any other means. *See* proposed Rule 9910.02; *see also* 5 CFR 2641.201(d)(1) (definition of ''communication'' in Rule 201 of the Post-Employment Conflict of Interest Restrictions under the Ethics in Government Act).

[9] For purposes of Rule 9910, ''appearance'' would mean physical presence before a FINRA Governor or employee, in either a formal or an informal setting. Although an appearance also may be accompanied by a communication, an appearance need not involve any communication. *See* proposed Rule 9910.01; *see also* 5 CFR 2641.201(d)(2) (definition of ''appearance'' in Rule 201 of the Post-Employment Conflict of Interest Restrictions under the Ethics in Government Act).

[10] For purposes of this proposed rule, ''employee'' would include both officer and non-officer employees. *See* proposed Rule 9910.03.

SEC.[11] This restriction would apply even if the former officer never worked on or supervised the matter while employed by FINRA. This provision does not prohibit ''behind-the-scenes assistance'' (*i.e.,* assistance that does not involve a communication to or appearance before FINRA), subject to FINRA Rule 9910(d) and, with respect to attorneys, any applicable state bar ethics rules.

2. Adoption of a New Rule Provision Prohibiting Subject Matter Conflicts

The interaction of a former employee with FINRA Governors or employees in a matter in which the former employee participated while at FINRA presents a potential conflict of interest and may undermine the public's trust and confidence in FINRA. Accordingly, FINRA proposes to adopt the following rule provision: [12]

No former employee of FINRA shall knowingly, with the intent to influence, make any communication to or appearance before a FINRA Governor or employee on behalf of any other person in connection with a particular matter involving a specific party or parties, in which the former employee participated personally and substantially as an employee, and in which FINRA is a party or has a direct and substantial interest. A duly authorized FINRA officer may grant reasonable exceptions and waivers from this prohibition consistent with the purposes of the prohibition.

This provision is modeled on Rule 201(a) of the Post-Employment Conflict of Interest Restrictions under the Ethics in Government Act.[13] The provision would permit ''behind-the-scenes assistance,'' subject to FINRA Rule 9910(d) and, with respect to attorneys, any applicable state bar ethics rules.

3. Two-Year Ban on ''Switching Sides'' on Matters Within Former Employee's Official Responsibility

The participation of a former employee in a matter that recently fell within the employee's official responsibility at FINRA presents at least an apparent conflict of interest and could undermine the public's trust and confidence in FINRA. Accordingly, FINRA proposes to adopt the following rule provision: [14]

For two years after his or her employment with FINRA terminates, no former employee shall knowingly, with the intent to influence, make any communication to or appearance before a FINRA Governor or employee on behalf of any other person in connection with a particular matter involving a specific party or parties, in which FINRA is a party or has a direct and substantial interest, and which the former employee knows or reasonably should know was actually pending under the former employee's official responsibility, within the one-year period prior to the termination of his or her employment with FINRA. A duly authorized FINRA officer may grant reasonable exceptions and waivers from this prohibition consistent with the purposes of the prohibition.

This restriction would be modeled on Rule 202(a) of the Post-Employment Conflict of Interest Restrictions under the Ethics in Government Act.[15] A matter could fall under the employee's official responsibility if, for example, the employee had administrative or operating authority, either alone or through others, and either personally or through subordinates, to approve or disapprove an action in the matter.[16] The provision would permit ''behind the scenes assistance,'' subject to FINRA Rule 9910(d) and, with respect to attorneys, any applicable state bar ethics rules.

4. Protection of Nonpublic Information

FINRA's Code of Conduct prohibits the use or disclosure of nonpublic information to anyone (including other FINRA employees) for any purpose unnecessary to the performance of an employee's duties, unless required by law or instructed to do so by an appropriate FINRA officer. All FINRA employees are also bound by confidentiality obligations through agreements entered in connection with their employment. FINRA seeks to further ensure that current employees do not use or disseminate nonpublic FINRA information for a purpose unnecessary to the performance of FINRA job responsibilities, and that former employees do not use or disseminate nonpublic FINRA information for any purpose, without authorization or unless the disclosure is required or protected by law, by proposing the following rule provision: [17]

No current employee of FINRA may disseminate or disclose, for a purpose unnecessary to the performance of FINRA job responsibilities, and no former employee of FINRA may disseminate or disclose, for any purpose, any nonpublic information obtained in the course of his or her FINRA employment, unless expressly authorized by FINRA. Nothing in this paragraph shall be deemed to limit current or former employees of FINRA from making any disclosures required or protected by law.

This restriction would place a duty on current FINRA employees not to disseminate or disclose, for a purpose unnecessary to the performance of FINRA job responsibilities, and on former FINRA employees not to disseminate or disclose, for any purpose, nonpublic information obtained in the course of their FINRA employment, unless expressly authorized by FINRA. The restriction would not limit current and former employees from disclosing nonpublic information obtained in the course of their employment with FINRA if the disclosure is required or protected by law.

For example, this restriction would not limit a current or former employee from participating in an investigation conducted by a regulatory entity or government agency. Nor would this provision limit current or former employees from making any disclosures protected by whistleblower statutes.

[11] Rule 204(a) provides, ''For one year after his service in a senior position terminates, no former senior employee may knowingly, with the intent to influence, make any communication to or appearance before an employee of an agency in which he served in any capacity within the one-year period prior to his termination from a senior position, if that communication or appearance is made on behalf of any other person in connection with any matter on which the former senior employee seeks official action by any employee of such agency.'' 5 CFR 2641.204(a).

[12] *See* proposed Rule 9910(b).

[13] Rule 201(a) provides, ''No former employee shall knowingly, with the intent to influence, make any communication to or appearance before an employee of the United States on behalf of any other person in connection with a particular matter involving a specific party or parties, in which he participated personally and substantially as an employee, and in which the United States is a party or has a direct and substantial interest.'' 5 CFR 2641.201(a).

[14] *See* proposed Rule 9910(c).

[15] Rule 202(a) provides, ''For two years after his Government service terminates, no former employee shall knowingly, with the intent to influence, make any communication to or appearance before an employee of the United States on behalf of any other person in connection with a particular matter involving a specific party or parties, in which the United States is a party or has a direct and substantial interest, and which such person knows or reasonably should know was actually pending under his official responsibility within the one-year period prior to the termination of his Government service.'' 5 CFR 2641.202(a).

[16] Rule 202 provides extensive interpretations regarding the meaning of ''official responsibility.'' Rule 202(j) provides, in part, '''Official responsibility' means the direct administrative or operating authority, whether intermediate or final, and either exercisable alone or with others, and either personally or through subordinates, to approve, disapprove, or otherwise direct Government action. Ordinarily, the scope of an employee's official responsibility is determined by those functions assigned by statute, regulation, Executive order, job description, or delegation of authority.'' 5 CFR 2641.202(j).

[17] *See* proposed Rule 9910(d).

5. Exceptions, Waivers and Operative Dates

Paragraphs (a), (b) and (c) of proposed Rule 9910 allow a duly authorized FINRA officer to grant reasonable exceptions and waivers from the prohibitions consistent with their purposes. A senior executive level officer in its Office of General Counsel whose responsibilities include interpreting and enforcing FINRA's Code of Conduct, including the Chief Legal Officer, will serve as the duly authorized officer for these purposes. Exceptions and waivers under paragraphs (a), (b), and (c) and authorizations under paragraph (d) typically will be granted in the rare instance that the prohibition conflicts with other law.

FINRA has filed the proposed rule change for immediate effectiveness. The operative date of paragraphs (b), (c) and (d) of proposed FINRA Rule 9910 will be December 3, 2018. The operative date of paragraph (a) of proposed FINRA Rule 9910 will be April 1, 2019.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[18] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and Section 15A(b)(9),[19] which requires that FINRA rules not impose any burden on competition that is not necessary or appropriate. FINRA believes that the proposed rule changes will provide greater assurance to the industry and investors that FINRA officers and employees will avoid actual or potential conflicts of interest when their employment with FINRA terminates, and that current and former employees will maintain the confidentiality of nonpublic FINRA information. Paragraphs (a) through (c) of the proposed rule also will better align FINRA's conflict of interest rules with those of the SEC. As with the SEC conflicts rules, FINRA believes that the proposed rules will help instill greater confidence in FINRA.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule would impose new restrictions on employees that are terminating their employment with FINRA by prohibiting them from making certain communications to or appearances before FINRA over the specified period after their employment with FINRA ends.

The primary benefit of this proposal would be to mitigate the conflicts of interest that may arise if a former FINRA employee used influence resulting from his or her employment at FINRA on behalf of another party. The proposal also would reduce incentives for private employers to hire FINRA employees potentially to influence matters in which the former FINRA employee had direct or indirect responsibilities. In addition, the proposal would help ensure that current and former FINRA employees do not misuse nonpublic FINRA information.

The primary cost of this proposal would be to reduce the value of a FINRA employee to a new employer, especially if the new employer valued the employee's experience in a particular area that could lead to a conflict of interest. However, this proposal does not affect the employee's ability to provide ''behind the scenes assistance'' that does not involve the use or dissemination of nonpublic information obtained in the course of his or her employment with FINRA, mitigating the cost to the FINRA employee and the future employer. Further, FINRA believes that the benefits to investors and the public associated with this proposal justify these costs.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[20] and paragraph (f)(3) of Rule 19b–4 thereunder.[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 necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2018–037 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–FINRA–2018–037. 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 FINRA. 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–FINRA–2018–037 and should be submitted on or before November 28, 2018.

[18] 15 U.S.C. 78*o*–3(b)(6).

[19] 15 U.S.C. 78*o*–3(b)(9).

[20] 15 U.S.C. 78s(b)(3)(A).

[21] 17 CFR 240.19b–4(f)(3).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–24306 Filed 11–6–18; 8:45 am]

BILLING CODE 8011–01–P

SUSQUEHANNA RIVER BASIN COMMISSION

Commission Meeting; Correction

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice; correction.

SUMMARY: The Susquehanna River Basin Commission will hold its regular business meeting on December 6, 2018, in Harrisburg, Pennsylvania. Details concerning the matters to be addressed at the business meeting are contained in the Supplementary Information section of this notice. Also the Commission published a document in the **Federal Register** of October 3, 2018 (83 FR 49969), concerning its public hearing on November 1, 2018, in Harrisburg, Pennsylvania. The document was revised to update the projects scheduled for action items #11 and #12, also contained below in the **SUPPLEMENTARY INFORMATION** section of this notice.

DATES: The meeting will be held on Thursday, December 6, 2018, at 9 a.m.

ADDRESSES: The meeting will be held at the Susquehanna River Basin Commission, Susquehanna Conference Room, 4423 N Front Street, Harrisburg, PA 17110.

FOR FURTHER INFORMATION CONTACT: Ava Stoops, Administrative Specialist, 717–238–0423, ext. 1302.

SUPPLEMENTARY INFORMATION: The business meeting will include actions or presentations on the following items: (1) Informational presentation of interest to the lower Susquehanna River region; (2) consideration of a resolution outlining the Auxiliary Powers of the Commission under Section 15.1 of the Compact; (3) resolution adopting FY2018 audit report; (4) ratification/approval of contracts/grants; (5) a report on delegated settlements; (6) settlement agreement from EQT Production Company for violation of passby flow conditions; (7) resolution concerning FY2020 federal funding of the Groundwater and Streamflow Information Program; (8) a proposed consumptive use mitigation project located in Conoy Township, Lancaster County, Pa. and associated water supply agreement with the Lancaster County Solid Waste Management Authority; (9) potential request for waiver of 18 CFR 806.31(e) as it pertains to submittal of renewal application for a groundwater withdrawal approval; and (10) Regulatory Program projects. The revised projects scheduled for action are as follows:

11. Project Sponsor and Facility: East Cocalico Township Authority, East Cocalico Township, Lancaster County, Pa. Application for renewal of groundwater withdrawal of up to 0.045 mgd (30-day average) from Well 10 (Docket No. 19890101).

12. Project Sponsor and Facility: East Cocalico Township Authority, East Cocalico Township, Lancaster County, Pa. Application for renewal of groundwater withdrawal of up to 0.059 mgd (30-day average) from Well 9 (Docket No. 19890101).

Regulatory Program projects and the consumptive use mitigation project listed for Commission action were those that were the subject of public hearings conducted by the Commission on November 1, 2018, and August 2, 2018, respectively, and identified in the notices for such hearings, which were published in 83 FR 49969, October 3, 2018, and 83 FR 31439, July 5, 2018, respectively.

The public is invited to attend the Commission's business meeting. Comments on the Regulatory Program projects and the consumptive use mitigation project were subject to deadline of November 13, 2018, and August 13, 2018, respectively. Written comments pertaining to other items on the agenda at the business meeting may be mailed to the Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, Pennsylvania 17110–1788, or submitted electronically through *www.srbc.net/about/meetings-events/business-meeting.html.* Such comments are due to the Commission on or before November 30, 2018. Comments will not be accepted at the business meeting noticed herein.

Authority: Pub. L. 91–575, 84 Stat. 1509 *et seq.,* 18 CFR parts 806, 807, and 808.

Dated: November 1, 2018.

Stephanie L. Richardson,

Secretary to the Commission.

[FR Doc. 2018–24373 Filed 11–6–18; 8:45 am]

BILLING CODE 7040–01–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Hazardous Materials: Notice of Applications for Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of applications for special permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein. Each mode of transportation for which a particular special permit is requested is indicated by a number in the ''Nature of Application'' portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before December 7, 2018.

ADDRESSES: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Ryan Paquet, Director, Office of Hazardous Materials Approvals and Permits Division, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–30, 1200 New Jersey Avenue Southeast, Washington, DC 20590–0001, (202) 366–4535.

SUPPLEMENTARY INFORMATION: Copies of the applications are available for inspection in the Records Center, East

[22] 17 CFR 200.30–3(a)(12).

Building, PHH–30, 1200 New Jersey Avenue Southeast, Washington DC or at *http://regulations.gov.*

This notice of receipt of applications for special permit is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on November 1, 2018.

Donald P. Burger,

Chief, General Approvals and Permits Branch.

SPECIAL PERMITS DATA

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
20788–N	TRINITY TANK CAR, INC	172.203(a), 172.302(c), 179.200–10(a), 179.220–10(a), 179.100–9(a), 179.400–11(c).	To authorize the manufacture, mark, sale and use of DOT specification tank car tanks with nozzle flanges manufactured using methods not currently identified in the Association of American Railroads (AAR) Manual of Standards and Recommended Practices, Section C-Part III, Specifications for Tank Cars, Specification M–1002, except as specified herein, for the transportation in commerce of the materials authorized by this special permit. (mode 2).
20789–N	FEDERAL EXPRESS CORPORATION.	172.400(a)(1), 172.202(a)(7), 172.300(a), 173.302(f)(3), 173.302(f)(4), 173.302(f)(5), 173.309(c)(5), 173.168(d)(1), 173.168(e), 175.8(a)(3), 175.30.	To authorize the transportation in air commerce of hazardous materials by cargo aircraft installed in a Crew Rest Module (CRM). (mode 4).
20791–N	LINDE GAS NORTH AMERICA LLC.	172.203(a), 172.301(c), 173.302a(b), 180.205.	To authorize the transportation in commerce of DOT 3AL cylinders that have been visual inspected per CGA C–6 is performed in lieu of the specified internal visual examination and hydrostatic pressure test for DOT 3AL alloy 6061 cylinders. (modes 1, 2, 3, 4, 5).
20795–N	JAGUAR INSTRUMENTS INC.	173.302a(a)(1), 173.304a(a)(1).	To authorize the manufacture, mark, sale, and use of non-DOT specification pressure vessels. (modes 1, 2, 3, 4).
20796–N	SODASTREAM USA, INC	Part 172 Subparts C, D, E, F, and H.	To authorize the transportation in commerce of certain DOT 3AL, TC/3ALM and UN ISO 7866 cylinders that contain carbon dioxide, with alternative hazard communication. (modes 1, 2, 3).
20797–N	LINDE GAS NORTH AMERICA LLC.	171.23(a), 173.302a(a)(1), 173.304a(a)(1), 178.71(q)(3).	To authorize the transportation in commerce of Pi marked pressure vessels for intermediate storage, transport to point of use, discharge, and exported without further filling and as well as the imported of certain Pi marked foreign pressure receptacles for filling, disposal of residual gas product, intermediate storage, and export. (modes 1, 2, 3).
20798–N	AMERICASE, LLC	173.185(a)	To authorize the manufacture, mark, sale, and use of certain 4B and 4G boxes for the transportation in commerce of prototype and low production lithium ion cells and batteries. (modes 1, 2, 3, 4).
20799–N	MULTI-CHEM, INC	173.40(d)(2), 173.226(a)	To authorize the transportation in commerce of Acrolein, stabilized in DOT 4BW240 cylinders. (modes 1, 3).
20800–N	ATK SPACE SYSTEMS INC	172.400, 172.500, 172.200, 172.300.	To authorize the transportation in commerce of certain hazardous materials over 0.5 miles of public roadway without being subject to hazard communication requirements. (mode 1).

[FR Doc. 2018–24297 Filed 11–6–18; 8:45 am]

BILLING CODE 4909–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Hazardous Materials: Notice of Applications for Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of actions on special permit applications.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permitsfrom the Department of Transportation's Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein.

DATES: Comments must be received on or before December 7, 2018.

ADDRESSES: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Ryan Paquet, Director, Office of Hazardous Materials Approvals and Permits Division, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–30, 1200 New Jersey Avenue Southeast, Washington, DC 20590–0001, (202) 366–4535.

SUPPLEMENTARY INFORMATION: Copies of the applications are available for inspection in the Records Center, East Building, PHH–30, 1200 New Jersey

Avenue Southeast, Washington, DC or at *http://regulations.gov.*

This notice of receipt of applications for special permit is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on November 01, 2018.

Donald P. Burger,

Chief, General Approvals and Permits Branch.

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
SPECIAL PERMITS DATA—Granted			
11447–M	SAES PURE GAS, INC	172.101(j), 173.240, 173.242, 173.187, 173.212, 176.83.	To modify the special permit to authorize an increase in the amount of nickel content from 5,200 pounds to 12,500 pounds.
12399–M	LINDE GAS NORTH AMERICA LLC.	172.203(a), 172.301(c), 180.205.	To modify the special permit to remove the annual reporting requirement, to adjust the check gain control accuracy requirement from annually to checked for a new Ultrasonic System and to update the language on min-wall patch requirements.
12532–M	CARLETON TECHNOLOGIES, INC.	173.302a(a)	To modify the special permit to clarify the proof testing pressure when a cylinder is inspected.
12748–M	LOCKHEED MARTIN CORPORATION.	172.301(a), 173.62, 173.62	To modify the special permit to authorize additional 1.1D explosives.
20391–N	LINCOLN HEXAGON INC	173.301(f), 173.301(f), 173.302(a).	To authorize the transportation in commerce of bundled non-DOT specification cylinders without pressure relief devices.
20612–M	WILCO MACHINE & FAB, INC.	178.345–7(a)(1), 178.345–3(a).	To remove the requirement for an external visual inspection every six months and to change the special permit from an emergency special permit to a routine special permit. (mode 1)
20697–M	Zoox, Inc	172.101(j), 173.185(a)	To modify the special permit to authorize and increase in battery weight and to lower the nominal energy rating.
20704–N	BALL AEROSOL AND SPECIALTY CONTAINER INC.	178.33–9(a)	To authorize the manufacture, mark, sale and use of a non-DOT specification inner container, which conforms to all regulations applicable to a DOT specification 2P inner container, except as specified herein, for the transportation in commerce of the materials authorized by this special permit.
20707–N	SHARPSVILLE CONTAINER CORPORATION.	173.302(a), 173.304(a), 173.40(a), 178.61(b).	To authorize the manufacture, mark, sale and use of non-DOT specification stainless steel cylinders conforming to all regulations applicable to DOT specification 4BW, except as specified herein, for use in transporting materials authorized under this special permit.
20792–N	ATLAS AIR, INC	172.101(j), 172.101(j)(1), 172.204(c)(3), 173.27(b)(2), 173.27(b)(3).	To authorize the transportation in commerce of explosives by cargo aircraft which is forbidden in the regulations.
SPECIAL PERMITS DATA—Denied			
14188–M	STP PRODUCTS MANUFACTURING COMPANY.	173.304(d), 173.306(i)	To modify the special permit to authorize additional cylinder designs and pressures.
20776–N	ELI LILLY AND COMPANY	173.12(b)(2)(i)	To authorize the transportation in commerce of lab packs where the inner packagings must be placed in a chemically compatible liner with sufficient absorbent material to prevent the wetting of the outer packaging.
SPECIAL PERMITS DATA—Withdrawn			
7573–M	DEPARTMENT OF DEFENSE (MILITARY SURFACE DEPLOYMENT & DISTRIBUTION COMMAND).	171.1	To modify the special permit to authorize the use of AFMAN 24–204 instead of 49 CFR and ICAO regulations for the transportation of hazmat.
20619–M	GLOBALTECH ENVIRONMENTAL CORP.	172.400, 172.200, 172.300, 173.159a(c)(2), 173.185(c)(1)(iii), 173.185(c)(1)(iv), 173.185(c)(1)(v), 173.185(c)(3).	To modify the special permit to authorize an additional design of the packaging authorized.
20702–N	SAMSUNG AUSTIN SEMICONDUCTOR, L.L.C.	173.4, 173.4a	To authorize the transportation in commerce of machinery and equipment containing trace amounts of certain hazardous materials as small or excepted quantities.
20786–N	LEMAN AIR	173.185(a)	To authorize the transportation in commerce of prototype lithium batteries by cargo-only aircraft.

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
20787–N	ATLAS AIR, INC	172.101(j)(1), 172.204(c)(3), 173.27(b)(2), 173.27(b)(3), 175.30(a)(1).	To authorize the transportation in commerce of explosives by cargo only aircraft in amounts forbidden by the regulations.
20794–N	JAGUAR INSTRUMENTS INC.	173.302(a), 173.304(a)	To authorize the manufacture, mark, sale and use of non-DOT specification cylinders for the transportation in commerce of certain hazardous materials.

[FR Doc. 2018–24299 Filed 11–6–18; 8:45 am]
BILLING CODE 4909–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Hazardous Materials: Notice of Applications for Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of applications for modification of special permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein. Each mode of transportation for which a particular special permit is requested is indicated by a number in the ''Nature of Application'' portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before November 23, 2018.

ADDRESSES: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Ryan Paquet, Director, Office of Hazardous Materials Approvals and Permits Division, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–30, 1200 New Jersey Avenue Southeast, Washington, DC 20590–0001, (202) 366–4535.

SUPPLEMENTARY INFORMATION: Copies of the applications are available for inspection in the Records Center, East Building, PHH–30, 1200 New Jersey Avenue Southeast, Washington, DC or at *http://regulations.gov.*

This notice of receipt of applications for special permit is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on November 1, 2018.

Donald P. Burger,

Chief, General Approvals and Permits Branch.

SPECIAL PERMITS DATA

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
10511–M	SCHLUM-BERGER TECHNOLOGY CORP.	173.304a	To modify the special permit to authorize a new pressure housing for transporting hazmat. (modes 1, 2, 4, 5).
12184–M	WELDSHIP CORPORATION	173.302a(b)(2), 173.302a(b)(3), 173.302a(b)(4), 173.302a(b)(5), 180.205(c), 180.205(f), 180.205(g), 180.205(i), 180.209(a), 180.209(a), 180.213.	To modify the special permit to remove the edition year of the CGA C–23 pamphlet since a newer edition is now the current reference. (modes 1, 2, 3, 4).
12899–M	CORE LABORATORIES L.P	173.301(f), 173.302a(a), 173.304a(a), 173.304a(d), 173.201(c), 173.202(c), 173.203(c), 175.3.	To modify the special permit to authorize an alternative to marking the necks of cylinders. (modes 1, 2, 3, 4).
14574–M	KMG ELECTRONIC CHEMICALS, INC.	180.407(c), 180.407(e), 180.407(f).	To modify the special permit to authorize an additional cargo tank wagon. (mode 1).
16011–M	AMERICASE, LLC	173.185(f), 172.500, 172.600, 172.700(a), 172.200, 172.400, 172.300.	To clarify that suspected damaged, defective or recalled lithium batteries can be transported according to the permit. (modes 1, 2, 3).
20661–M	SAFT AMERICA INC	172.400, 172.300, 173.301(g), 173.302a(a)(1), 173.185(b).	To modify the special permit to authorize the use of batteries not manufactured by Saft in the battery assemblies, and an increase in the maximum rated energy capacity permitted for the containerized battery assembly, that references to the UN Test Manual be updated to take account of the January 1, 2019, effective date of Amendment 1 to the Sixth Revised edition under international regulations. (modes 1, 3).
20689–M	DEPARTMENT OF DEFENSE (MILITARY SURFACE DEPLOYMENT & DISTRIBUTION COMMAND).	171.2(k)	To modify the special permit that was issued on an emergency basis and make it permanent. (modes 1, 3).

[FR Doc. 2018–24298 Filed 11–6–18; 8:45 am]

BILLING CODE 4909–60–P

DEPARTMENT OF THE TREASURY

Senior Executive Service; Legal Division Performance Review Board

AGENCY: Department of the Treasury.

ACTION: Notice of members of the Legal Division Performance Review Board (PRB).

SUMMARY: This notice announces the appointment of members of the Legal Division PRB. The purpose of this Board is to review and make recommendations concerning proposed performance appraisals, ratings, bonuses, and other appropriate personnel actions for incumbents of SES positions in the Legal Division.

DATES: November 7, 2018.

FOR FURTHER INFORMATION CONTACT: Office of the General Counsel, Department of the Treasury, 1500 Pennsylvania Avenue NW, Room 3000, Washington, DC 20220, Telephone: (202) 622–0283 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

Composition of Legal Division PRB

The Board shall consist of at least three members. In the case of an appraisal of a career appointee, more than half the members shall consist of career appointees. Composition of the specific PRBs will be determined on an ad hoc basis from among the individuals listed in this notice.

The names and titles of the PRB members are as follows:

Paul Ahern, Assistant General Counsel (Enforcement & Intelligence);
Michael Briskin (Deputy Assistant General Counsel (General Law, Ethics and Regulation);
Brian Callanan, Deputy General Counsel;
Michelle Dickerman, Deputy Assistant General Counsel (Litigation, Oversight, and Financial Stability);
Eric Froman, Principal Deputy Assistant General Counsel (Banking and Finance);
Anthony Gledhill, Chief Counsel, Alcohol Tobacco, Tax, and Trade Bureau;
Elizabeth Horton, Deputy Assistant General Counsel (Ethics);
Mark Kaizen—Associate Chief Counsel, General Legal Services, Internal Revenue Service;
Jimmy Kirby, Chief Counsel, Financial Crimes Enforcement Network;
Jeffrey Klein, Deputy Assistant General Counsel (International Affairs);
Steven D. Laughton, Assistant General Counsel (Banking and Finance);
Martha M. Pacold, Deputy General Counsel;
Douglas Poms, Deputy International Tax Counsel;
Sidney Rocke, Chief Counsel, Bureau of Engraving and Printing;
John Schorn, Chief Counsel, U.S. Mint;
Bradley Smith, Chief Counsel, Office of Foreign Assets Control;
Brian Sonfield, Assistant General Counsel (General Law, Ethics and Regulation);
David Sullivan, Assistant General Counsel (International Affairs);
Heather Trew, Deputy Assistant General Counsel (Enforcement & Intelligence);
Krishna Vallabhaneni, Deputy Tax Legislative Counsel;
Thomas West, Tax Legislative Counsel and;
Paul Wolfteich, Chief Counsel, Bureau of the Fiscal Service.

Brent J. McIntosh,

General Counsel.

[FR Doc. 2018–24365 Filed 11–6–18; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

United States Mint

Citizens Coinage Advisory Committee Meeting

ACTION: Notification of Citizens Coinage Advisory Committee November 14, 2018, Public Meeting.

SUMMARY: The United States Mint announces the Citizens Coinage Advisory Committee (CCAC) public meeting scheduled for November 14, 2018.

Date: November 14, 2018.

Time: 1:00 p.m. to 2:30 p.m.

Location: 8th Floor Board Room, United States Mint, 801 9th Street NW, Washington, DC 20220.

Subject: Review and discussion of candidate designs for the American Veterans Medal.

Interested members of the public may either attend the meeting in person or dial in to listen to the meeting at (866) 564–9287/Access Code: 62956028.

Interested persons should call the CCAC HOTLINE at (202) 354–7502 for the latest update on meeting time and room location.

Any member of the public interested in submitting matters for the CCAC's consideration is invited to submit them by email to *info@ccac.gov*.

The CCAC advises the Secretary of the Treasury on any theme or design proposals relating to circulating coinage, bullion coinage, Congressional Gold Medals, and national and other medals; advises the Secretary of the Treasury with regard to the events, persons, or places to be commemorated by the issuance of commemorative coins in each of the five calendar years succeeding the year in which a commemorative coin designation is made; and makes recommendations with respect to the mintage level for any commemorative coin recommended.

Members of the public interested in attending the meeting in person will be admitted into the meeting room on a first-come, first-serve basis as space is limited. In addition, all persons entering a United States Mint facility must adhere to building security protocol. This means they must consent to the search of their persons and objects in their possession while on government grounds and when they enter and leave the facility, and are prohibited from bringing into the facility weapons of any type, illegal drugs, drug paraphernalia, or contraband.

The United States Mint Police Officer conducting the screening will evaluate whether an item may enter into or exit from a facility based upon federal law, Treasury policy, United States Mint Policy, and local operating procedure; and all prohibited and unauthorized items will be subject to confiscation and disposal.

FOR FURTHER INFORMATION CONTACT: Betty Birdsong, Acting United States Mint Liaison to the CCAC; 801 9th Street NW, Washington, DC 20220; or call 202–354–7200.

Authority: 31 U.S.C. 5135(b)(8)(C).

Dated: November 1, 2018.

David J. Ryder,

Director, United States Mint.

[FR Doc. 2018–24281 Filed 11–6–18; 8:45 am]

BILLING CODE 4810–37–P

DEPARTMENT OF VETERANS AFFAIRS

Cooperative Studies Scientific Evaluation Committee; Notice of Meeting

The Department of Veterans Affairs gives notice under the Federal Advisory Committee Act that the Cooperative Studies Scientific Evaluation Committee will hold a meeting on December 4, 2018, at the American Association of Airport Executives, 601 Madison Street, Alexandria, VA. The meeting will begin at 8:30 a.m. and end at 3:00 p.m.

The Committee advises the Chief Research and Development Officer on the relevance and feasibility of proposed projects and the scientific validity and propriety of technical details, including protection of human subjects.

The session will be open to the public for approximately 30 minutes at the start of the meeting for the discussion of administrative matters and the general status of the program. The remaining portion of the meeting will be closed to the public for the Committee's review,

discussion, and evaluation of research and development applications.

During the closed portion of the meeting, discussions and recommendations will deal with qualifications of personnel conducting the studies, staff and consultant critiques of research proposals and similar documents, and the medical records of patients who are study subjects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. As provided by section 10(d) of Public Law 92–463, as amended, closing portions of this meeting is in accordance with 5 U.S.C. 552b(c)(6) and (c)(9)(B).

The Committee will not accept oral comments from the public for the open portion of the meeting. Those who plan to attend or wish additional information should contact Grant Huang, Director, MPH, Ph.D., Cooperative Studies Program (10P9CS), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, at (202) 443–5700 or by email at *grant.huang@va.gov.* Those wishing to submit written comments may send them to Dr. Huang at the same address and email.

Dated: November 2, 2018.

LaTonya L. Small,

Federal Advisory Committee Management Officer.

[FR Doc. 2018–24326 Filed 11–6–18; 8:45 am]

BILLING CODE 8320–01–P

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Part II

Department of Transportation

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 171, 172, et al.

Hazardous Materials: Response to Petitions From Industry To Modify, Clarify, or Eliminate Regulations; Final Rule

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 171, 172, 173, 176, 178, and 180

[Docket No. PHMSA–2015–0102 (HM–219A)]

RIN 2137–AF09

Hazardous Materials: Response to Petitions From Industry To Modify, Clarify, or Eliminate Regulations

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Final rule.

SUMMARY: In this rulemaking, PHMSA is amending the Hazardous Materials Regulations in response to 19 petitions for rulemaking submitted by the regulated community to update, clarify, streamline, or provide relief from miscellaneous regulatory requirements. By adopting these deregulatory amendments, PHMSA is allowing more efficient and effective ways of transporting hazardous materials in commerce while maintaining an equivalent level of safety.

DATES:

Effective date: This rule is effective December 7, 2018.

Incorporation by reference date: The incorporation by reference of certain publications listed in this final rule is approved by the Director of the Federal Register as of December 7, 2018.

Voluntary compliance date: November 7, 2018.

Delayed compliance date: Unless otherwise specified, compliance with the amendments adopted in this final rule is required beginning November 7, 2019.

FOR FURTHER INFORMATION CONTACT: Steven Andrews, (202) 366–8553, *steven.andrews@dot.gov,* Office of Hazardous Materials Standards, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.

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I. Executive Summary

In response to petitions for rulemaking submitted by the regulated community, PHMSA is amending the Hazardous Materials Regulations (HMR; 49 CFR parts 171–180) to update, clarify, streamline, or provide relief from miscellaneous regulatory requirements. Specifically, PHMSA is:

- Incorporating by Reference (IBR) multiple publications from the Compressed Gas Association (CGA), the Chlorine Institute, and the Department of Defense (DoD).
- Revising the table in § 180.407(g)(1)(iv) to make this section consistent with the applicable packaging specification (*e.g.,* § 178.347).
- Addressing inconsistencies with domestic and international labels and placards.
- Revising § 173.150(g) include the use of the International System of Units (SI).
- Excepting limited quantities of ''UN1942, Ammonium nitrate'' from requiring permission from the Captain of the Port (COTP) before being loaded or unloaded from a vessel at a waterfront facility.
- Allowing for combination non-bulk packagings that are tested and marked for a liquid hazardous material to be filled with a solid hazardous material.
- Including an additional hazardous material description for transport in roadway striping vehicles.
- Extending the service life of interim compliant toxic inhalation hazard (TIH) tank cars to the full service life of all other tank cars.
- Allowing the use of plastic, metal, or composite pallets to transport materials classed and marked as limited quantities.
- No longer mandating that excepted quantities comply with the emergency response telephone requirement.
- Harmonizing the recordkeeping requirements for portable tanks.
- Allowing for printing tolerances for labels and placards.
- Allowing electronic signatures for Environmental Protection Agency (EPA) manifest forms.
- No longer requiring the service pressure to be marked on Department of Transportation (DOT) 8 and 8L cylinders.
- Acknowledging that the marked date of manufacture on a composite intermediate bulk container (IBC) may differ from the marked date of manufacture on the inner receptacle of that IBC.
- Revising the basis weight tolerance for fiberboard boxes from +/− 5% to +/− 10% from the nominal basis weight reported in the initial design qualification test report.

II. Background

A. Notice of Proposed Rulemaking

On June 30, 2016, PHMSA (also ''we'' or ''us'') published in the **Federal Register** a notice of proposed rulemaking (NPRM) titled, ''Hazardous Materials: Miscellaneous Petitions for Rulemaking (RRR)'' under Docket No. PHMSA–2016–0102 (HM–219A). This deregulatory rulemaking action is part of PHMSA's retrospective review efforts that are designed to identify ways to improve the HMR.

The Administrative Procedure Act (APA) requires Federal agencies to give interested persons the right to petition an agency to issue, amend, or repeal a rule. *See* 5 U.S.C. 553(e). PHMSA's rulemaking procedure regulations in 49 CFR 106.95 establish a process for persons to ask PHMSA to add, amend, or delete a regulation by filing a petition for rulemaking containing adequate support for the requested action. The HM–219A NPRM responded to 19 petitions for rulemaking submitted to PHMSA by various stakeholders. In the NPRM, we proposed to amend the HMR to update, clarify, or provide relief from miscellaneous regulatory requirements at the request of the regulated community.

PHMSA received 26 public comments in response to the above amendments proposed in the June 30, 2016 NPRM. These comments are discussed in further detail in this final rule.

B. Commenters

The comment period for the June 30, 2016, NPRM closed on August 29, 2016. PHMSA received a total of 26 comments from 25 separate entities, seven of which submitted petitions discussed in the NPRM. PHMSA developed this final rule in consideration of the comments received to the public docket. The comments submitted to this docket may be accessed via *http://www.regulations.gov.* The following persons, companies, and associations submitted comments to the HM–219A NPRM:

Aaron Adamczyk	*https://www.regulations.gov/document?D=PHMSA-2015-0102-0011.*
Alaska Airlines	*https://www.regulations.gov/document?D=PHMSA-2015-0102-0010.*
American Chemistry Council (ACC)	*https://www.regulations.gov/document?D=PHMSA-2015-0102-0016.*
Association of American Railroads (AAR)	*https://www.regulations.gov/document?D=PHMSA-2015-0102-0022.*
Association of Hazmat Shippers, Inc. (AHS)	*https://www.regulations.gov/document?D=PHMSA-2015-0102-0024.*
Clifford Bartley	*https://www.regulations.gov/document?D=PHMSA-2015-0102-0026.*
Council on Safe Transportation of Hazardous Articles (COSTHA)	*https://www.regulations.gov/document?D=PHMSA-2015-0102-0023.*
Dangerous Goods Advisory Council (DGAC)	*https://www.regulations.gov/document?D=PHMSA-2015-0102-0025.*
Daniel Shelton	*https://www.regulations.gov/document?D=PHMSA-2015-0102-0004.*
Donald Hausmann	*https://www.regulations.gov/document?D=PHMSA-2015-0102-0007.*
Dow Chemical Company (Dow)	*https://www.regulations.gov/document?D=PHMSA-2015-0102-0015.*
Fibre Box Association	*https://www.regulations.gov/document?D=PHMSA-2015-0102-0006.*
Healthcare Distribution Alliance (HDA)	*https://www.regulations.gov/document?D=PHMSA-2015-0102-0018.*
Institute of Makers of Explosives (IME)	*https://www.regulations.gov/document?D=PHMSA-2015-0102-0013.*
International Vessel Operators Dangerous Goods Association (IVODGA).	*https://www.regulations.gov/document?D=PHMSA-2015-0102-0020.*
Mark Borth	*https://www.regulations.gov/document?D=PHMSA-2015-0102-0027.*
National Propane Gas Association (NPGA)	*https://www.regulations.gov/document?D=PHMSA-2015-0102-0021.*
Norris Cylinder	*https://www.regulations.gov/document?D=PHMSA-2015-0102-0002.*
Norris Cylinder	*https://www.regulations.gov/document?D=PHMSA-2015-0102-0003.*
Railway Supply Institute (RSI)—Railway Supply Institute Committee on Tank Cars (RSICTC).	*https://www.regulations.gov/document?D=PHMSA-2015-0102-0014.*
Reusable Industrial Packaging Association (RIPA)	*https://www.regulations.gov/document?D=PHMSA-2015-0102-0028.*
The Chlorine Institute	*https://www.regulations.gov/document?D=PHMSA-2015-0102-0019.*
The Fertilizer Institute (TFI)	*https://www.regulations.gov/document?D=PHMSA-2015-0102-0017.*
Truck Trailer Manufacturers Association (TTMA)	*https://www.regulations.gov/document?D=PHMSA-2015-0102-0012.*
VWR International, LLC	*https://www.regulations.gov/document?D=PHMSA-2015-0102-0005.*
William Briner	*https://www.regulations.gov/document?D=PHMSA-2015-0102-0008.*

III. Discussion of Amendments and Applicable Comments

Section III discusses the proposals that are being adopted, as well as those not being adopted, into the HMR as part of this rulemaking.

A. General Comments

This final rule, and the NPRM that preceded it, are part of PHMSA's retrospective regulatory review efforts, and is in response to petitions for rulemaking by the regulated community. Its intent is to update, clarify, or provide relief from miscellaneous regulatory requirements. The NPRM provided an opportunity for further public participation in the development of the regulatory amendments and promoted exchange of information and perspectives among the various stakeholders.

PHMSA received comments from 25 entities. The comments were comprehensive and raised important issues to be addressed. PHMSA fully considered all comments in the development of this final rule. This final rule preamble contains a detailed description of the original proposals in the June 30, 2016 NPRM, a summary of the comments received, a response to those comments, and an explanation of PHMSA's decisions for each petition proposed in the NPRM.

B. Comments Beyond the Scope of This Rulemaking

This section discusses the comments to the HM–219A NPRM that provided suggestions for additional revisions that were not specifically addressed in the NPRM. Based on an assessment of the proposed changes and the comments received, PHMSA identified two comments as beyond the scope of this rulemaking action.

PHMSA received a comment from the Association of American Railroads (AAR) related to petition P–1646 and the phase out of tank cars constructed of non-normalized steel. While PHMSA has accepted this petition for a future rulemaking, it is not being addressed in this final rule. PHMSA will use AAR's comments if a future NPRM is developed on the referenced petition P–1646.

PHMSA also received a comment from Mr. Adam Adamczyk, who suggested that PHMSA incorporate by reference numerous standards from the American National Standards Institute (ANSI), American Society of Heating, Refrigeration and Air-Conditioning Engineers (ASHRAE), American Society for Testing and Materials (ASTM), and the American Welding Society (AWS). PHMSA did not propose the incorporation of these standards in the NPRM and thus is not incorporating the standards in this final rule. However, PHMSA suggests the commenter submit a petition in accordance with § 106.95 of the HMR for any IBR standards the

commenter would suggest including in a future rulemaking.

C. Provisions Not Adopted in This Final Rule and Discussion of Comments

This section discusses the changes proposed in the NPRM that are not being adopted in this final rule. In the preamble to the NPRM, PHMSA inadvertently included a section on petition P–1655 from the Dangerous Goods Trainers Association (DGTA). PHMSA did not propose any regulatory text and is therefore not addressing this petition at this time. PHMSA anticipates addressing this petition in a future rulemaking.

D. Provisions Adopted in This Final Rule and Discussion of Comments

This section discusses the changes proposed in the NPRM and the comments received in response. Based on an assessment of the proposed changes and the comments received, PHMSA is adopting the following provisions in this final rule. Also, to clearly identify the issues addressed in this rule, PHMSA provides the following list of adopted amendments discussed in this section:

1. Cargo Tank Specification

In petition P–1615, The Walker Group requested revisions to the table in § 180.407(g)(1)(iv) to make this section consistent with the applicable packaging specification (*e.g.,* § 178.347). A cargo tank manufactured to the requirements of the applicable DOT specifications has to be tested in accordance with the HMR. Currently, the design specifications for cargo tanks in § 178.320 contain general requirements applicable to all cargo tanks. The design specifications, including the test pressures for older cargo tanks that are no longer authorized for manufacture but still authorized for use, were last found in the 1985 edition of the HMR (*e.g.,* MC 306—§ 178.341–7; MC 307—§ 178.342–7; MC 312—§ 178.343–7).

This petition seeks to eliminate confusion by changing the regulations to allow the use of the marked test pressure on the cargo tank nameplate as the requalification test pressure and to amend every entry in the § 180.407(g)(1)(iv) test pressure table by beginning the entries with the phrase, ''[t]he test pressure on the nameplate (specification plate).'' PHMSA conducted a technical and policy review of the petition. Instead of modifying every test pressure entry as suggested by the petitioner, PHMSA proposed in the NPRM that revisions should only apply to certain cargo tank specifications (DOT 407, MC 304, and MC 307) to harmonize the periodic hydrostatic testing required by part 180 with the initial testing for the applicable packaging specification prescribed in part 178. The proposed revisions aimed to further clarify that test pressures (in case of periodic pneumatic testing required by part 180) are already consistent with the initial testing for the applicable packaging specification prescribed in part 178.

In response to the proposal, PHMSA received comments from Daniel Shelton, Truck Trailer Manufacturers Association (TTMA), and National Propane Gas Association (NPGA). NPGA noted a discrepancy in the preamble text and proposed regulatory text. Specifically, NPGA referenced the preamble text that identifies revisions to certain cargo tank specifications for hydrostatic testing of DOT 407, MC 304, and MC 307. However, NPGA noted that the proposed regulatory text adds the increased test pressure for all cargo tanks, rather than just those specifications identified in the preamble. NPGA requested that PHMSA resolve the discrepancy to ensure it is consistent with both the administration and the petitioner's intent. PHMSA agrees with the commenter and is adding to each entry the phrase, ''The test pressure on the name plate or specification plate, or 1.5 times the MAWP, whichever is greater.''

Daniel Shelton requested PHMSA adopt the increased test pressure requirements for MC 306 cargo tanks in addition to the proposed language. Specifically, the suggestion stemmed from industry confusion on the appropriate test pressure that should be used for cargo tanks. PHMSA agrees and, as stated above, is adding the revised language to all entries in § 180.407(g)(1)(iv).

TTMA supported the petition and the proposed amendment but noted a minor error in the table for the DOT 412 entry. TTMA believed this note should read: ''[t]he test pressure on the name plate or specification plate, *or* 1.5 times the MAWP, whichever is greater.'' PHMSA agrees with TTMA and is adding ''or'' as appropriate to the table in § 180.407(g)(1)(iv).

2. Chlorine Institute Publications

In petition P–1619, the Chlorine Institute requested that updates to publications currently listed in § 171.7(l)—specifically § 171.7(l)(1), (2), (5), and (12)—and referenced in various sections of the HMR be incorporated by reference. PHMSA conducted a review of these publications and found them suitable to propose incorporation into the HMR. In the NPRM, PHMSA proposed to include the following updated documents in the referenced material:

- Chlorine Institute Emergency Kit ''A'' for 100-lb. & 150-lb. Chlorine Cylinders, Edition 12, Revision 2, July 2014. Emergency Kit ''A'' is designed for use with the standard DOT 3A480 and 3AA480 100 and 150-pound capacity cylinders in chlorine service only. Emergency Kit ''A'' contains devices and tools to contain leaks in and around the cylinder valve and in the side wall of chlorine cylinders. The Chlorine Institute Emergency Kit ''A'' is the only chlorine emergency kit for chlorine cylinders that is manufactured to the design specifications of the Chlorine Institute. Under certain circumstances U.S. DOT regulations permit transportation of a chlorine cylinder with an Emergency Kit ''A''. See 49 CFR 173.3(e).
- Chlorine Institute Emergency Kit ''B'' for Chlorine Ton Containers, Edition 11, Revision 1, July 2014. Emergency Kit ''B'' is designed for use with the standard DOT 106A500X chlorine ton container and can also be used with 110A500W in chlorine service. Emergency Kit ''B'' contains devices and tools to contain leaks in and around the ton container valves and in the side wall of ton containers. The Chlorine Institute Emergency Kit ''B'' is the only chlorine emergency kit for ton containers that is manufactured to the design specifications of The Chlorine Institute. Under certain circumstances U.S. DOT regulations permit transportation of a chlorine ton container with an Emergency Kit ''B''. See 49 CFR 173.3(e).
- Pamphlet 57, Emergency Shut-Off Systems for Bulk Transfer of Chlorine, Edition 6, June 2015. This pamphlet covers the recommended practices for emergency shut-off protection during chlorine transfers involving bulk containers.
- Pamphlet 168, Guidelines for Dual Valve Systems for Bulk Chlorine Transport, Edition 2, July 2015. The purpose of this pamphlet is to set forth performance/selection criteria that should be utilized in identifying dual valve systems for bulk chlorine transportation applications (*i.e.,* tank cars, cargo tanks and barges). These configurations are intended to meet U.S. Department of Transportation (DOT) and Transport Canada (TC) performance requirements. This pamphlet contains information pertaining to standardizations, performance/design criteria, operational considerations and installation considerations, as well as an

appendix that includes valve manufacturer information.

PHMSA received comments from the Chlorine Institute in relation to this petition. The Chlorine Institute supported PHMSA's incorporation of the IBR documents. The Chlorine Institute further believed that this would eliminate the need for certain special permits (specifically SP–16102, which allows transportation of equipment designed in accordance with Edition 11, Revision 1, of the Emergency Kit ''B'' (B–Kit) instruction booklet). PHMSA agrees and is therefore adopting the changes in § 171.7(l) to incorporate the most recent Chlorine Institute publications as proposed.

3. International Label and Placard Consistency

In petition P–1620, Labelmaster Services requested revisions to the HMR to address inconsistencies between international and domestic labels and placards. Specifically, the petition requested revisions to §§ 172.519(f) and 172.407(f) of the HMR to allow for the use of labels and placards conforming to the specifications in the United Nations Recommendations on the Transport of Dangerous Goods (UN Recommendations), the International Civil Aviation Organization Technical Instructions on the Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions), the International Maritime Dangerous Goods (IMDG) Code, or the Transport Canada Transportation of Dangerous Goods (TDG) Regulations.

Upon reviewing the petition, PHMSA found that the requested changes are likely to clarify some regulatory requirements and provisions that exist for the transportation of hazardous materials internationally, and are not likely to be onerous or costly for the regulated community. In the NPRM, PHMSA proposed revisions to §§ 172.519(f) and 172.407(f) of the HMR to allow for the use of labels and placards conforming to the specifications in the UN Recommendations, ICAO Technical Instructions, IMDG Code, or TDG Regulations.

In response to the proposed changes in the NPRM, PHMSA received comments from Clifford Bartley, Council on the Safe Transport of Hazardous Articles (COSTHA), and International Vessel Operators Dangerous Goods Association (IVODGA). All commenters expressed support for PHMSA adopting these provisions as written. Additionally, COSTHA added that the proposed changes would not increase the burden on shippers. PHMSA agrees with the commenters and is therefore incorporating the changes in §§ 172.519(f) and 172.407(f) of the HMR as proposed.

4. Limited Quantities of Ammonium Nitrate by Vessel

In petition P–1624, Horizon Lines, LLC requested that § 176.415(b) be revised to except limited quantities of ''UN1942, Ammonium nitrate'' from requiring permission from the Captain of the Port (COTP) before being loaded or unloaded from a vessel at a waterfront facility. This petition for rulemaking is in response to previous changes to the HMR that will eliminate the Other Regulated Materials Domestic (ORM–D) classification.

Specifically, Horizon Lines expressed concern that while the change from ORM–D to limited quantities is good for harmonization and the industry overall, the change has had some unintended negative consequences for shippers and vessel operators. Specifically, Horizon Lines identified having to reclassify ''UN1942, Ammonium nitrate'' products that would have previously shipped as ORM–D as being shipped under the limited quantities exception. Horizon Lines believes the HMR requires that ''UN1942, Ammonium nitrate, 5.1'' be moved under a United States Coast Guard (USCG) permit regardless of the quantity shipped.

Upon review of the petition, PHMSA found that shipping ''UN1942, Ammonium nitrate, 5.1'' as a limited quantity instead of ORM–D will put a higher burden of cost on both the shipper and the vessel operator, without increasing safety, because they must continue to abide by the requirements in § 176.415(c)(4) to obtain a permit. Section 176.415(b) already provides exceptions for ''UN1942, Ammonium nitrate'' when shipped in a rigid packaging with a noncombustible inside packaging and ''UN2067, Ammonium nitrate fertilizer'' when the nearest COTP is notified at least 24 hours in advance of any loading or unloading in excess of 454 kg (1,000 pounds). In the NPRM, PHMSA proposed an exception for ''UN1942, Ammonium nitrate'' when shipped as a limited quantity to require written notification to the USCG at least 24 hours prior to loading this type of cargo.

In response to the proposed changes in the NPRM, PHMSA received comments from Clifford Bartley, Institute of Makers of Explosives (IME), COSTHA, and IVODGA. All commenters expressed support for PHMSA adopting these provisions. However, IME disagreed that the proposed exception should only apply to ''limited quantities'' of ''UN1942, Ammonium nitrate fertilizer.'' IME recommended that PHMSA extend the proposed exception to any amount of UN1942, not just limited quantities.

IME's comment is outside the scope of the petition. One of the main justifications for supporting P–1624 was limiting the scope of the exception to ''limited quantities,'' as these materials were previously classed ORM–D at the same quantity limits and therefore were exempt from § 176.11(e). It is also unclear from the comment what IME is proposing or why any exemptions should apply regardless of whether or not they are limited quantities.

5. Use of Combination Packages Tested With a Liquid

In petition P–1625, HAZMATPAC requested the allowance of the shipment of solid materials in a package when that package has been tested with a liquid material. Currently, § 173.24a(b)(3) allows a single or composite non-bulk packaging that is tested and marked for a liquid hazardous material to be filled with a solid hazardous material up to a gross mass in kilograms not exceeding the rated capacity of the packaging in liters, multiplied by the specific gravity of the packaging, or 1.2 if not marked. In addition, paragraphs (i), (ii), and (iii) allow a packaging rated for a liquid Packing Group (PG) I to be filled with a solid PG II hazardous material, a packaging rated for a liquid PG I to be filled with a solid PG III hazardous material, and a packaging rated for a liquid PG II to be filled with a solid PG III hazardous material.

In the NPRM, PHMSA proposed to revise § 173.24a(b)(3) to allow combination packages tested with liquids to transport solid materials. In response to the proposed changes in the NPRM, PHMSA received comments from COSTHA, Dangerous Goods Advisory Council (DGAC), Reusable Industrial Packaging Association (RIPA), and Donald Hausmann. Mr. Hausmann supported the proposed requirement, stating that these revisions would improve shipping options for solid material shippers without hindering safety concerns. In its comments, COSTHA stated it cannot support or oppose the proposed revision, as further clarification is needed on PHMSA's intentions for revising § 173.24a(b)(1) and (3). Specifically, COSTHA indicated that the proposed regulatory language erroneously compares specific gravity to the gross mass of the package and vice versa. COSTHA provided the following language, which they believe PHMSA

intended to incorporate in this section: ''A Packing Group I packaging may be used for a Packing Group II material with a specific gravity not exceeding the greater of 1.8, or 1.5 times the specific gravity marked on the packaging, or with the gross mass of the package not exceeding 1.5 times the gross mass marked on the packaging, provided all the performance criteria can still be met with the higher specific gravity material.'' RIPA also noted that the proposed language to § 173.24a as ''or gross mass of the package'' is inexact and confusing. RIPA commented that in most cases ''gross mass'' is not marked on package tested for a liquid. RIPA believed PHMSA should ensure that the upper limit of 400 kg net mass for the definition of non-bulk packages would not be exceeded when using this section. RIPA also noted that PHMSA specified in the preamble that the adoption of P–1625 was for combination packages; however, combination packages are not referenced in the proposed regulatory text of § 173.24a. RIPA indicated their belief that combination packages were not eligible for filling provisions of solids in liquid rated packages because of safety concerns and that the exclusion of combination packages is correct if safety can be shown as a risk.

PHMSA agrees with COSTHA's proposed language with respect to the gross mass of the package and is updating the language in this final rule to accurately reflect the intention of the NPRM. PHMSA is also adding a statement stating that ''packages shall not exceed 400 kg'' to ensure only non-bulk packages could be used in this section. PHMSA is also removing the text for single and composite (thus encompassing all non-bulk packages) to clarify that it was PHMSA's intent in the NPRM to allow for single, combination, and composite packages to be able to use this section. While RIPA did note some safety concerns with including combination packages in this section, PHMSA believes the concerns are unfounded. PHMSA believes the factors used to convert between the different packing groups correspond with the multiples between the drop test heights, accounting for the change in testing needed to certify a package for a greater weight at a lower packing group.

6. Shipping Names for Roadway Striping Vehicles

In petition P–1634, 3M Company requested an amendment to the table in § 173.5a(c)(l) to include an additional hazardous material description for transport in roadway striping vehicles. Specifically, 3M requested the addition of UN2735 ''Amines, Liquid, Corrosive, n.o.s., 8, III'' or ''Polyamines, Liquid, Corrosive, n.o.s., 8, III'' when used as a catalyst.

The table in § 173.5a(c)(1) currently lists ''UN3267, Corrosive liquid basic, organic, n.o.s.'' as a catchall for corrosive liquids, while at the same time § 172.101(c)(10)(iii) reads, ''[a] mixture or solution meeting the definition of one or more hazard class that is not identified in the Table specifically by name, comprised of two or more hazardous materials in the same hazard class, must be described using an appropriate shipping description (*e.g.,* 'Flammable liquid, n.o.s.').'' Further, commodities that can be described explicitly (not comprised of two or more hazardous materials) should be listed by ''the name that most appropriately describes the material,'' with the example being an alcohol not listed by its technical name in the table being described as ''Alcohol, n.o.s'' rather than ''Flammable liquid, n.o.s.'' Because an amine compound is the single hazardous corrosive component in 3M's pavement marking liquid, PHMSA believes this change will not result in measurable economic or safety impacts. In the NPRM, PHMSA proposed to add proper shipping names to the list of authorized materials in § 173.5a(c)(1).

PHMSA received no comments either supporting or opposing this proposal. Therefore, PHMSA is incorporating the changes to § 173.5a(c)(l) as proposed to allow the shipping descriptions ''UN2735, Amines, Liquid, Corrosive, n.o.s., 8, III'' or ''Polyamines, Liquid, Corrosive, n.o.s., 8, III'' when used as a catalyst.

7. Toxic by Inhalation Tank Car Lifespan

In petition P–1636, the Chlorine Institute requested that PHMSA extend the service life of interim compliant toxic inhalation hazard (TIH) tank cars to the full service life of all other tank cars as allowed in § 215.203 of the Federal Railroad Administration (FRA) regulations. Specifically, the Chlorine Institute requested a revision to paragraph § 173.31(e)(2)(iii), which specifies a 20-year allowable service life for tank cars transporting TIH materials that were built to specifications contemplated in the HM–246 rulemaking because of an expected delay of at least 8 to 10 years before a permanent TIH design standard and specification would be available from the Advanced Tank Car Collaborative Research Program (ATCCRP).

Although the plain language of § 173.31(e)(2)(iii) limits the authorized service life of tank cars meeting the relevant specifications to 20 years from the date of the cars' construction, the final rule in which PHMSA adopted this 20-year service life made clear that tank cars built to these specifications were intended as an interim solution to then-existing market conditions. (74 FR 1770; Jan. 13, 2009). These interim tank car specifications were intended to make immediate safety improvements in tank car construction and to ensure the ongoing availability of tank cars for the transportation of TIH materials while the Department moved forward with the development and validation of an enhanced performance standard for TIH tank cars and the incorporation of such an enhanced standard into the HMR. With the understanding of the interim nature of these cars, PHMSA intended the 20-year authorized service life to guarantee tank car owners a reasonable service life for the cars, even if the Department were to issue a new tank car standard in the years immediately following the 2009 final rule [74 FR 1770]. The Department is still working towards developing and implementing an enhanced performance standard for TIH materials tank cars. PHMSA's review of the petition found that there is likely economic merit in undertaking a rulemaking as requested. In the NPRM, PHMSA proposed to revise § 173.31(e)(2)(iii) to remove the 20-year service life, which will allow continued use of the interim compliant TIH tank cars to the full service life of all other tank cars, as allowed in § 215.203.

In response to the proposed changes in the NPRM, PHMSA received comments from American Chemistry Council (ACC), Railway Supply Institute (RSI), Dow Chemical, Railway Supply Institute Committee on Tank Cars (RSICTC), and DGAC. All commenters expressed support to extend the service life of TIH tank cars as proposed. RSICTC added that extending the service life of the TIH tank cars would provide an economic incentive for further investment in tank cars with at least a 50 percent improvement in crashworthiness. PHMSA agrees with the commenters and is therefore incorporating the changes in § 173.31(e)(2)(iii) to remove the 20-year service life, which will extend the use of the interim compliant TIH tank cars to the full service life of all other tank cars as allowed in § 215.203.

PHMSA received a petition for rulemaking (P–1691) from the American Association of Railroads (AAR)/The Chlorine Institute/American Chemistry Council (ACC)/The Fertilizer Institute/Railway Supply Institute (RSI) on December 16, 2016, requesting that PHMSA revise the HMR to make the

''interim'' tank car specifications issued as part of the HM–246 final rule be considered the ''final'' specifications. On September 18, 2017, PHMSA accepted the petition, and if a future NPRM is developed PHMSA will address the issue in that rulemaking. Please see the docket for P–1691 [1] for additional information.

8. Limited Quantity Pallets

In petition P–1638, Labelmaster Services requested a revision to the HMR that would allow the use of plastic or metal pallets to transport materials classed and marked as limited quantities. The petition specifically requested that PHMSA revise § 173.156(b)(2)(iii), which specifies these materials be secured to a wooden pallet, to also specify that they could be secured to a plastic or metal pallet.

PHMSA's review of the petition found that there is likely economic merit in undertaking a rulemaking as requested. In addition, a technical review of the petition found there should be no decrease in safety due to the proposed change. The changes suggested by this petition would allow transporters greater flexibility in their choice of pallets, with possible accompanying cost savings. In the NPRM, PHMSA proposed to revise § 173.156(b)(2)(iii) to allow for the use of metal, plastic, or composite pallets used to ship limited quantities of hazardous materials.

In response to the proposed changes in the NPRM, PHMSA received comments from Healthcare Distribution Alliance (HDA), COSTHA, and DGAC. All commenters expressed support for the proposal. In addition, COSTHA specified that it should be reiterated that the hazardous materials should be compatible with the pallet material. PHMSA agrees and is revising § 173.156(b)(2)(iii) to allow for the use of metal, plastic, or composite pallets to ship limited quantities of hazardous materials, provided the hazardous materials will not react with the pallet material.

9. Emergency Response Numbers

In petition P–1639, Horizon Lines, LLC requested an exception to the requirement in § 172.604(d)(1) to provide an emergency response telephone number, suggesting that an emergency response telephone number no longer be required on a shipping paper for excepted quantities of hazardous materials. This change would be consistent with how PHMSA treats limited quantities of hazardous materials. Specifically, the petitioner asked PHMSA to revise § 172.604(d)(1) so that it may be applicable to limited quantities and excepted quantities.

This modification is justified because excepted quantity weights are less than the already exempted limited quantity weights. In addition, this revision will harmonize the emergency response number requirements with the IMDG Code, which does not require an emergency response telephone number on the dangerous goods documentation (or anywhere else) for any excepted material; however, all hazardous materials, including those in excepted quantities, must comply with Section 5.4.3.2 of the IMDG Code, which requires emergency response information to be communicated in ways other than a phone number, such as a Safety Data Sheet (SDS). PHMSA's review of the petition found that there is likely economic merit in undertaking a rulemaking as requested without any decrease to safety. In the NPRM, PHMSA proposed to revise § 172.604(d)(1) to no longer require an emergency response telephone number on a shipping paper be provided for excepted quantities of hazardous materials.

In response to the proposed changes in the NPRM, PHMSA received comments from AAR, COSTHA, IVODGA, DGAC, Clifford Bartley, the Fertilizer Institute (TFI), HAD, and the Chlorine Institute. All commenters expressed support for the proposal. Therefore, PHMSA is incorporating the changes to § 172.604(d)(1) as proposed to no longer require an emergency response telephone number be provided on a shipping paper for excepted quantities of hazardous materials.

10. Units of Measurement for Limited Quantities of Ethyl Alcohol

In petition P–1640, the Association of HAZMAT Shippers (AHS) requested that the units of measure included in § 173.150(g), which addresses limited quantities of retail products containing ethyl alcohol, be converted to the International System of Units (SI units) because SI units are used elsewhere in the HMR. SI units are typically used in the manufacturing of inner receptacles. PHMSA's review of the petition found that there is likely economic merit in undertaking a rulemaking as requested without any decrease to safety. In the NPRM, PHMSA proposed to revise § 173.150(g) to convert measurements to SI units.

In response to the proposed changes in the NPRM, PHMSA received comments from AHS, VWR International, LLC, and COSTHA. AHS expressed appreciation for incorporation of its petition, which addressed the lack of metric units in § 173.150(g). However, AHS noted that the NPRM did not fully address the original petition, which further requested incorporation of the original scope of Special Permit 9275 into § 173.150(g) that included language allowing ''items suitable for retail sale'' to be included in the exception. PHMSA notes that in our response to AHS's petition, we denied the portion requesting the incorporation of the term ''suitable for retail'' sale in § 173.150(g). Therefore, PHMSA did not propose in the NPRM to include the terms ''suitable for retail sale'' and as such we are not incorporating the term ''suitable for retail sale'' in this final rule.

AHS also commented that there are inconsistencies with the incorporation of SI units in § 173.150(g). Specifically, AHS noted that as specified in § 171.10, when SI units are displayed, they are the controlling standard, and when U.S. units appear in parentheses, they are for additional information. AHS noted that their petition originally requested that PHMSA incorporate SI units as the controlling standard and U.S. units in parentheses, which is opposite to the proposed language in the NPRM. Therefore, AHS requested that the intent of the original petition be incorporated. Furthermore, AHS, VWR International, LLC, and COSTHA provided conversions between SI and U.S. units, which they ask to be changed. PHMSA agrees with the commenters and is correcting the regulatory text in § 173.150(g) to show the SI unit as the controlling units in this final rule.

11. Cylinder Valves and Protection Caps

In petition P–1641, CGA proposed to add new paragraphs § 173.301(a)(11) and (12). The proposed changes concern valve requirements for cylinders as outlined in ''CGA V–9–2012, Compressed Gas Association Standard for Compressed Gas Cylinder Valves, Seventh Edition.'' Specifically, CGA requested that cylinder valves and cylinder valve protection caps manufactured on or after May 4, 2019, be required to conform to the requirements in ''CGA V–9–2012, Compressed Gas Association Standard for Compressed Cylinder Valves, Seventh Edition.'' Justifications for this request include ensuring standardization of cylinder valve designs and providing guidance to users on proper selection of valves. PHMSA's review of the petition found that there is likely economic merit in undertaking a rulemaking as requested without any decrease to safety. In the NPRM,

[1] *https://www.regulations.gov/docket?D=PHMSA-2016-0164.*

PHMSA proposed to add new paragraphs to § 173.301(a)(11) and (12) to the HMR to conform to the new standards for cylinder valves and caps as outlined in ''CGA V–9–2012, Compressed Gas Association Standard for Compressed Gas Cylinder Valves, Seventh Edition.''

In response to the proposed changes in the NPRM, PHMSA received comments from Dow Chemical, COSTHA, NPGA, and DGAC. While commenters expressed support for the proposed changes, DGAC and Dow were concerned that the proposed requirements may not be appropriate or feasible for materials identified under the Hazardous Materials Table (HMT) entries for ''chemical under pressure,'' such as UN3500 and UN3503. Specifically, DGAC noted that the valves may not be appropriate for dispensing liquids, since they are more suitable for dispensing a ''true gas'' and may not be suitable for valves meeting CGA V–9–2012 requirements. As an alternative to the proposed regulatory language, Dow suggested revising the requirement for CGA V–9–2012 valves to exclude ''chemical under pressure'' from the requirements. Alternatively, Dow suggested revising § 173.335(a) to except these materials from the proposed requirements in § 173.301(a)(11) and (12). In addition, Dow, DGAC, COSTHA, and NPGA requested a sufficient and significant delay to allow time to comply with the retrofit in replacing existing valves. DGAC noted that a May 4, 2015, retrofit date would cause significant cost to industry in order to replace stainless steel valves for these cylinders, with a cost estimate of approximately $2.3 million. COSTHA also commented that it is unclear if the second sentence in proposed § 173.301(a)(11) and (12) provides mandatory exceptions for UN Pressure Receptacles or additional requirements.

PHMSA's Office of Hazardous Materials Safety is revising the HMR to ensure that cylinder valves follow uniform construction and performance standards for improved transportation safety of cylinders containing hazardous materials. PHMSA agrees with commenters that an exception from the valve requirements should be made for those chemicals under pressure regulated under § 173.335. Therefore, PHMSA is implementing Dow's proposal to revise the requirements for chemicals under pressure in § 173.335(a) to provide an exception to conform to the new standards for cylinder valves and caps in the new requirements in § 173.301(a)(11) and (12). PHMSA is also extending the compliance date to give a grace period of one year after the rulemaking becomes effective to comply with the new valve cap requirements in § 173.301(a)(11) and (12). PHMSA is further clarifying that the second sentence in § 173.301(a)(11) and (12) provides additional requirements for UN Pressure Receptacles.

NPGA noted that CGA's petition states that Liquefied Petroleum Gas (LPG) cylinder valves and valve protection systems would not be affected by the adoption of CGA V–9–2012 because LPG cylinders are already listed by National Fire Protection Association (NFPA) 58. However, NPGA noted that NPFA 58 does not require cylinder valves to be listed but does require that they comply with ANSI 1769, which is different than being listed. Therefore, NPGA expressed concern that the adoption of CGA V–9–2012 would conflict with the cylinder valve requirement for cylinders used in LPG service under NFPA 58. NPGA also noted that the proposed regulatory text for § 171.7 does not include CGA–V–9–2012.

To address the concerns of NPGA, PHMSA is revising § 173.301(a)(11) to read: ''Cylinder valves used on cylinders in liquefied petroleum gas (LPG) service are permitted to comply with the requirements of NFPA 58, Liquefied Petroleum Gas Code.'' PHMSA also agrees that the CGA V–9–2012 standard should be cited in § 171.7 and is adding applicable regulatory text to this section.

12. Recordkeeping Requirements for Portable Tanks

In petition P–1644, HAZMAT Resources proposed to add text to § 180.605(l) to address recordkeeping requirements for portable tanks. This revision would harmonize this recordkeeping requirement with § 180.417(a)(3)(ii), which addresses recordkeeping requirements for certain cargo tank motor vehicles constructed and certified in accordance with the ASME Code. The petitioner recommended renaming § 180.605(l) as § 180.605(l)(1) and adding an additional § 180.605(l)(2). This new section would include recordkeeping requirements in line with § 180.417(a)(3)(ii). PHMSA agrees this revision as proposed would provide an alternative means of compliance for portable tanks that has already been provided for cargo tanks. PHMSA believes there is likely economic merit in revising this section without a reduction in safety. In the NPRM, PHMSA proposed to revise § 180.605(l) to allow the owner of a portable tank to contact the National Board for a copy of the manufacturer's data report, if the portable tank was registered with the National Board, or copy the information contained on the portable tanks specification plate and ASME Code data plates.

PHMSA received no comments either supporting or opposing this proposal. Therefore, PHMSA is incorporating the changes to § 180.605(l) as proposed to allow the owner of a portable tank to contact the National Board for a copy of the manufacturer's data report, if the portable tank was registered with the National Board, or copy the information contained on the portable tanks specification plate and ASME Code data plates.

13. Printing Tolerances for Labels and Placards

In petition P–1650, Labelmaster Services proposed to revise §§ 172.407(c) and 172.519(c) of the HMR to allow printing tolerances for labels and placards. Labelmaster noted that the printing tolerances specified for the solid-line inner border that is parallel to the edge is extremely difficult to maintain with standard printing processes.

After a policy review of the petition, PHMSA agrees with Labelmaster that the absence of a tolerance will increase printing costs, as well as lead to inconsistent enforcement practices and confusion on the part of businesses attempting to remain compliant, without providing any increase in safety or hazard communication. In the NPRM, PHMSA proposed to revise §§ 172.407(c) and 172.519(c) to add the word ''approximately'' to these sections to allow for printing tolerances with respect to the solid inner border for labels and placards. PHMSA believes that this simple fix and small change in the HMR could reduce costs with no degradation in safety.

In response to the NPRM, PHMSA received comments from COSTHA and DGAC in support of the proposed changes. Therefore, PHMSA is revising §§ 172.407(c) and 172.519(c) as proposed to add the word ''approximately'' to these sections to allow for printing tolerances with respect to the solid inner border for labels and placards.

14. Incorporation of Department of Defense Standards

In petition P–1651, the Department of Defense (DoD) Explosives Safety Board requested that PHMSA amend the citations in § 171.7(o)(1) and (2) to include the latest detailed publications used by the DoD in its examination and classification of explosives. PHMSA

reviewed and provided feedback to DoD on the proposed changes to the manuals. Updating this manual is essential to allowing the DoD to safely move explosives in the interest of national security.

PHMSA received no comments either supporting or opposing this proposal. Therefore, PHMSA is incorporating the latest publications used by the DoD in its examination and classification of explosives in § 171.7(o)(1) and (2) as proposed.

15. Service Pressure Marking for DOT 8 and DOT 8L Cylinders

In petition P–1656, Norris Cylinder proposed that PHMSA revise § 178.35(f)(7) to no longer require the marking of the service pressure on DOT 8 and DOT 8L cylinders. After both a technical and policy review of the petition, PHMSA agrees with Norris Cylinder there is no safety reason to require marking the service pressure on DOT 8 and DOT 8L cylinders. In the NPRM, PHMSA proposed to revise this section as requested by the petitioner.

In response to the proposed changes in the NPRM, PHMSA received comments from Norris Cylinder and COSTHA. Both commenters noted a typographical error in the proposed language in § 178.35(f)(7) specifying ''DOT 4 or 4AL cylinders,'' which should actually read ''DOT 8 and 8AL cylinders.'' This correction aligns with the original petition, as well as the preamble text in the NPRM. Therefore, PHMSA is revising § 178.35(f)(7) to no longer require DOT 8 and 8AL cylinders to be marked with the service pressure.

16. Incorporation of CGA Publication

In petition P–1657, CGA proposed IBR updates to the CGA publication ''CGA C–7–2014, Guide to Classification and Labeling of Compressed Gases, Tenth Edition'' currently listed in § 171.7(n)(7). This publication has been updated to meet requirements for the U.S. Occupational Safety and Health Administration (OSHA) and was previously incorporated into OSHA's regulations in 2012. CGA requested that PHMSA permit the use of the 2014 edition of CGA C–7 to keep current with industry practices that are incorporated into Appendix A of C–7.

PHMSA's review of the petition found that there are some editorial changes to the text of Appendix A in the 2014 edition that were added for clarity but do not impact the use of the required labels. In the NPRM, PHMSA proposed the incorporation by reference of ''CGA C–7–2014, Guide to Classification and Labeling of Compressed Gases, Tenth Edition'' into the HMR.

PHMSA received no comments either supporting or opposing this proposal. Therefore, PHMSA is incorporating by reference ''CGA C–7–2014, Guide to Classification and Labeling of Compressed Gases, Tenth Edition'' as proposed.

17. Use of Electronic Manifest

In petition P–1659, COSTHA proposed to revise § 172.205 to permit the use of electronic signatures when completing an EPA form 8700–22 and 8700–22A. PHMSA reviewed and concurred with this proposed change, believing there is likely merit without a reduction in safety. In the NPRM, PHMSA proposed to add paragraph (j) to permit the use of electronic signatures when completing an EPA form 8700–22 and 8700–22A.

In response to the proposed changes in the NPRM, PHMSA received comments from HDA, AAR, COSTHA, DGAC, and Clifford Bartley. All commenters expressed support for the proposal. Additionally, AAR noted that ''it should be recognized that an electronic copy of the manifest can be used to meet the three-year retention requirement.'' Therefore, PHMSA is revising § 172.205 to permit the use of electronic signatures when completing an EPA form 8700–22 and 8700–22A and recognizing that the electronic manifest can be used to meet the 3-year retention requirement.

18. Marked Date of Manufacture on Composite IBCs

In petition P–1662, Rigid Intermediate Bulk Container Association of North America (RIBCA) proposed to amend § 178.703(b) to acknowledge that the marked date of manufacture on a composite IBC may differ from the marked date of manufacture on the inner receptacle of that IBC. RIBCA petitioned PHMSA to propose the substance of the UN adopted note, ''The date of manufacture of the inner receptacle may be different from the marked date of manufacture (see 6.5.2.1), repair (see 6.5.4.5.3) or remanufacture (see 6.5.2.4) of the composite IBC,'' as a final sentence in § 178.703(b)(6)(i) to read as follows: ''The date of manufacture of the inner receptacle may be different from the marked date of manufacture required by § 178.703(a)(1)(iv) or by § 180.352(d)(1)(iv).''

Upon review of the petition, PHMSA found that allowing the inner receptacle and the composite IBC to have different date markings will have no effect on the safety of the use and manufacture of IBCs. Integrating the proposed language into the current HMR will also bring rules for the marking of dates of manufacture on IBCs in line with current international standards. In the NPRM, PHMSA proposed to revise the HMR to allow the date of manufacture on the inner receptacle to be different than on the composite IBC.

In response to the proposed changes in the NPRM, PHMSA received a comment from RIBCA. RIBCA noted that this change will have no effect on safety when inner receptacles and composite IBCs are stamped with different dates reflecting manufacture or repair of a completed IBC. However, RIBCA disagreed with the language in the NPRM that states ''provided that the retest and inspection of the IBCs be based on the earliest marked date.'' RIBCA contested that this language should be deleted because it is unnecessary from a safety perspective since inner packagings are sometimes built and stored well before being installed in composite IBCs. Therefore, as proposed, the retest and inspection would apply to an IBC well before an inner package becomes subject to detrimental effects, which begins when it is installed in the IBC. RIBCA noted that this language is inconsistent with other requirements in the regulations and more restrictive than the UN Model Regulations/International Regulations, further noting that it would create an additional complexity for an IBC user because they will need to compare two different dates when determining required periodic tests and inspection dates.

In response to these comment, PHMSA agrees to remove the language stating ''provided that the retest and inspection of IBCs be based on the earliest marked date.'' While PHMSA believes that including multiple dates may make it confusing to users and may make it difficult to know which to use, the marked date of repair is ultimately the date that must be used to determine the next inspection date. Also, because the repair phase of an IBC includes a leakproofness test, the 2.5-year time period should start from that point. However, comments from members of industry suggest that they are typically replaced in a timeframe less than 2.5 years, so this should not make a difference. Therefore, PHMSA is revising the changes to § 178.703(b) to remove the above language.

19. Basis Weight Tolerances for Liners and Mediums Used in the Manufacture of Specification UN 4G Fiberboard Boxes

In petition P–1663, COSTHA requested PHMSA revise the basis weight tolerance provided in

§ 178.516(b)(7) from +/− 5 percent to +/− 10 percent from the nominal basis weight reported in the initial design qualification test report.

PHMSA conducted a review of the petition and found that the requested change is unlikely to affect safety and is largely following industry practices. The realities of paper manufacturing are such that a wide range of basis weights can be found on any large enough sample of fiberboard run on the same line to the same specification. This revision would only modify the percentage threshold for the allowable nominal basis weight for fiberboard boxes and would not result in any fundamental changes to testing, recordkeeping, or approval processes by either PHMSA or the regulated community. In the NPRM, PHMSA proposed to revise the basis weight tolerance provided in § 178.516(b)(7) from +/− 5 percent to +/− 10 percent from the nominal basis weight reported in the initial design qualification test report.

In response to the proposed changes in the NPRM, PHMSA received comments from DGAC, Clifford Bartley, Fibre Box Association, and COSTHA. All commenters expressed support for the proposal. Therefore, PHMSA is incorporating the changes as proposed to revise the basis weight tolerance provided in § 178.516(b)(7) from +/− 5 percent to +/− 10 percent from the nominal basis weight reported in the initial design qualification test report.

IV. Section-by-Section Review

Below is a section-by-section description of the changes being adopted in this final rule.

A. Section 171.7

Section 171.7 lists all standards incorporated by reference into the HMR that are not specifically set forth in the regulations. This final rule incorporates by reference publications by the Chlorine Institute, the DoD, and the CGA.

The Chlorine Institute publications include the following:

(1) Chlorine Institute Emergency Kit ''A'' for 100-lb. & 150-lb. Chlorine Cylinders, Edition 12, Revision 2, July 2014. This publication is freely available on the Chlorine Institute website at: *https://bookstore.chlorineinstitute.org/iba-instruction-booklet-chlorine-institute-emergency-kit-a-for-100-lb-and-150-lb-chlorine-cylinders-166.html.* This publication illustrates the use of Chlorine Institute Emergency Kit ''A.'' It also includes a complete parts list and instructions on how to apply both generations of Emergency Kit ''A,'' those manufactured before December 31, 2012 and after January 1, 2013. The Emergency Kit ''A'' contains devices and tools to contain leaks in and around the cylinder valve and in the side wall of chlorine cylinders.

(2) Chlorine Institute Emergency Kit ''B'' for Chlorine Ton Containers, Edition 11, Revision 1, July 2014. This publication is available on the Chlorine Institute website at: *https://bookstore.chlorineinstitute.org/mm5/merchant.mvc?Session_ID=832f559635b70c753d7a6780f4876094&Store_Code=ci2store&Screen=PROD&Product_Code=EPR_IB_B-HC&.* This publication illustrates the use of Chlorine Institute Emergency Kit ''B.'' It also includes a complete parts list and instructions on how to apply both the current and previous kit devices of Emergency Kit ''B.'' The updates in this edition include depictions of commonly used optional devices and numerous editorial revisions. Emergency Kit ''B'' contains devices and tools to contain leaks in and around the ton container valves and in the side wall of ton containers.

(3) Pamphlet 57, Emergency Shut-Off Systems for Bulk Transfer of Chlorine, Edition 6, June 2015. This publication is available on the Chlorine Institute website at: *https://bookstore.chlorineinstitute.org/mm5/merchant.mvc?Session_ID=832f559635b70c753d7a6780f4876094&Store_Code=ci2store&Screen=PROD&Product_Code=SPHP0057-HC&.* This publication describes recommended practices for emergency shut-off protection during chlorine transfers involving bulk containers. The practices include automatic shut-off upon container movement or utility failure, the ability to activate the system at the bulk container or remotely for any reason, including a chlorine leak, and practical design options for a variety of industry accepted systems.

(4) Pamphlet 168, Guidelines for Dual Valve Systems for Bulk Chlorine Transport, Edition 2, July 2015. Pamphlet 168 is to be added to the HMR at § 178.337–9. This publication is available on the Chlorine Institute website at: *https://bookstore.chlorineinstitute.org/mm5/merchant.mvc?Session_ID=832f559635b70c753d7a6780f4876094&Store_Code=ci2store&Screen=PROD&Product_Code=SPHP0168-HC&.* This publication sets forth performance and selection criteria that should be used in identifying dual valve systems for bulk chlorine transportation applications (*i.e.,* tank cars, cargo tanks, and barges). These configurations are intended to meet DOT and Transport Canada (TC) performance requirements. This pamphlet contains information pertaining to standardizations, performance and design criteria, operational and installation considerations, as well as an appendix that includes valve manufacturer information.

DoD publications include the following:

(1) TB 700–2; NAVSEAINST 8020.8C; TO 11A–1–47: DoD Ammunition and Explosives Hazard Classification Procedures, 30 July 2012, into § 173.56. This publication is freely available on the DoD website at: *https://www.ddesb.pentagon.mil/docs/TB700-2.pdf.* This publication sets forth detailed procedures for hazard classifying ammunition and explosives in accordance with DOT regulations, North Atlantic Treaty Organization guidelines, and United Nations Recommendations. Based on reactions obtained, it further provides for assignment of appropriate hazard classifications for transportation and storage. It seeks to assure that under identical conditions, all DoD Components (DODCs) will use identical hazard classifications for ammunition and explosives items.

(2) DLAR 4145.41/AR 700–143/NAVSUPINST 4030.55D/AFMAN 24–210_IP/MCO 4030.40C: Packaging of Hazardous Materials, 21 April 2015 into § 173.7. This publication is freely available on the DoD website at: *http://www.dla.mil/Portals/104/Documents/J5StrategicPlansPolicy/PublicIssuances/r4145.41.pdf.* This publication establishes a uniform standard for packaging hazardous materials for safe, efficient, and legal storage, handling, and transportation, to include Department of Transportation Special Permit (DOT–SP), Competent Authority Approval (CAA), Certificate of Equivalency (COE), and Packaging Waivers for Military Air in accordance with AR 700–15/NAVSUPINST 4030.28E/AFJMAN 24–206/MCO 4030.33E/DLAR 4145.7 (Reference (c)) and Defense Transportation Regulation (DTR) 4500.9- R-Part II, Cargo Movement (Reference (d)).

CGA publications include the following:

(1) CGA C–7–2014, Guide to Classification and Labeling of Compressed Gases, Tenth Edition. This publication states the general principles for labels and markings and gives recommended minimum requirements for labeling of compressed gases for many hazardous gases and selected liquids.

(2) CGA V–9–2012, Compressed Gas Association Standard for Compressed

Gas Cylinder Valves, Seventh Edition. This publication specifies general cylinder valve design, design qualification, required markings, and performance requirements such as operating temperature limits, pressure ranges, operating torque limits, and flow capabilities. It also provides testing and maintenance requirements.

B. Section 172.205

Section 172.205 describes the requirements for the use of hazardous waste manifest. This final rule revises paragraph (j) to permit the use of electronic signatures when completing an EPA form 8700–22 and 8700–22A.

C. Section 172.407

Section 172.407 describes the label specifications for packages shipping hazardous materials under the HMR. This final rule revises paragraph (c) to allow for size tolerances for the labels by inserting the term ''approximately'' for the inner border to be 5 mm. This final rule also revises paragraph (f) to address inconsistencies between international and domestic labels.

D. Section 172.519

Section 172.519 describes placard specification for shipments of hazardous materials that require placards. This final rule revises paragraph (c) to allow for size tolerances for the placards by inserting the term ''approximately'' for the inner border to be 5 mm. This final rule also revises paragraph (f) to address inconsistencies between international and domestic placards.

E. Section 172.604

Section 172.604 describes the requirements to have an emergency response number on shipping papers for shipments of hazardous materials. This final rule revises § 172.604(d) to no longer require an emergency response number for excepted quantities of hazardous materials.

F. Section 173.5a

Section 173.5a outlines the requirements for cargo tank motor vehicles used for roadway striping. This final rule adds proper shipping names in § 173.5a(c)(1) to the list of authorized materials that can be used under this section.

G. Section 173.24a

Section 173.24a outlines the general requirements for non-bulk packages. This final rule revises each paragraph in this section to allow for packages tested with a liquid material to be filled with a solid material of the equivalent packing group.

H. Section 173.31

Section 173.31 outlines the specifications for the use of tank cars. Specifically, § 173.31(e) outlines the specifications for tank cars used to transport materials that are poisonous by inhalation. This final rule removes the reference to the 20-year service life for these tank cars in § 173.31(e)(2)(iii), thus extending the service life to the standard for all tank cars set forth at § 215.203 of the FRA regulations.

I. Section 173.150

Section 173.150 outlines exceptions for Class 3 flammable and combustible liquids. This final rule changes the units in § 173.150(g) from imperial units to the International System of Units and revises all the units in this section to the International System of Units.

J. Section 173.156

Section 173.156 outlines exceptions for limited quantities and ORM–D materials. This final rule revises § 173.156(b)(2)(iii) to allow for pallets to be made of metal, plastic, or composite materials in addition to wood.

K. Section 173.301

Section 173.301 outlines the general requirements for the shipment of compressed gases and other hazardous materials in cylinders, UN pressure receptacles, and spherical pressure vessels. This final rule revises § 173.301(a) by adding subparagraphs (11) and (12). Paragraph (11) will require all cylinder valves manufactured on or after May 4, 2015, to conform to the requirements in CGA V–9–2012, as well as requiring UN pressure receptacles to conform to the requirements of § 173.301b(c)(1). Paragraph (12) will require that cylinder valve protection caps manufactured on or after May 4, 2015, conform to the requirements of CGA V–9–2012. Cylinder valve protection caps used on UN cylinders must conform to the requirements in § 173.301b(c)(2)(ii).

L. Section 173.335

Section 173.335 outlines the requirements for chemicals under pressure, n.o.s. This final rule revises § 173.335(a) to clarify that these materials are not subject to the cylinder valve requirements finalized in § 173.301(a)(11).

M. Section 176.415

Section 176.415 outlines permit requirements for Division 1.5, ammonium nitrates, as well as certain ammonium nitrate fertilizers. This final rule revises the HMR to no longer require written permission from the COTP to load or unload limited quantities of ammonium nitrates.

N. Section 178.35

Section 178.35 outlines the general requirements for specification cylinders. This final rule revises § 178.35 to no longer require the marking of the service pressure for DOT 8 and DOT 8 AL cylinders.

O. Section 178.337

Section 178.337–9 outlines the requirements for pressure relief devices, piping, valves, hoses, and fittings. This final rule revises § 178.337–9(b)(8) to add a reference to allow the use of ''Sections 4 through 6, Pamphlet 168, Guidelines for Dual Valve Systems for Bulk Chlorine Transport, Edition 2, July 2015'' under this section.

P. Section 178.516

Section 178.516 outlines the standards for fiberboard boxes. This final rule revises § 178.516(b)(7) to allow for the paper wall basis weights that vary by not more than +/− 10 percent from the nominal basis weight reported in the initial design qualification test report.

Q. Section 178.703

Section 178.703 outlines the marking requirements for IBCs. This final rule revises § 178.703(b)(6)(i) by clarifying that the date of manufacture of the inner receptacle may be different from the marked date of manufacturer required by § 178.703(a)(1)(iv) or § 180.352(d)(1)(iv).

R. Section 180.407

Section 180.407 outlines the requirements for the testing and inspection of specification cargo tanks. This final rule revises the table in § 180.407(g)(1)(iv) to put the words ''The test pressure on the name plate or specification plate, or 1.5 times the MAWP, whichever is greater'' in the test pressure column before each test pressure specification.

S. Section 180.605

Section 180.605 outlines the requirements for periodic testing, inspection, and repair of portable tanks. This final rule revises § 180.605(l) by adding § 180.605(l)(2) to allow the owner of a portable tank to contact the National Board for a copy of the manufacture's data report, if the portable tank was registered with the National Board, or copy the information contained on the portable tank's specification plate and ASME Code data plates.

V. Regulatory Analyses and Notices

A. Statutory/Legal Authority for This Rulemaking

This final rule is published under authority of the Federal Hazardous Materials Transportation Law (Federal Hazmat Law; 49 U.S.C. 5101 *et seq.*). Section 5103(b) of Federal Hazmat Law authorizes the Secretary of Transportation to prescribe regulations for the safe transportation, including security, of hazardous materials in intrastate, interstate, and foreign commerce. The Secretary delegated her authority to PHMSA at 49 CFR 1.97.

B. Executive Order 12866, Executive Order 13563, Executive Order 13610, Executive Order 13771, and DOT Regulatory Policies and Procedures

This final rule is not considered a significant regulatory action under section 3(f) of Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735; Oct. 4, 1993), and was not reviewed by the Office of Management and Budget (OMB). This final rule is also not considered a significant rule under the Regulatory Policies and Procedures order issued by the U.S. Department of Transportation on February 26, 1979. *See* 44 FR 11034.

Background

PHMSA has involved the public in the regulatory process in a variety of ways for this final rule. Specifically, in this rulemaking PHMSA is responding to 19 petitions that have been submitted by the public in accordance with the APA and PHMSA's rulemaking procedure regulations (49 CFR 106.95).

Overall, this rulemaking maintains the continued safe transportation of hazardous materials while producing a net cost savings. PHMSA's findings are summarized here and described in further detail in the Regulatory Impact Analysis (RIA), which can be found in the regulatory docket (Docket ID: PHMSA–2015–0102) at *www.regulations.gov.*

Summary of Findings

PHMSA estimates a present value of quantified net cost savings of approximately $237 million over 10 years and $16.5 million annualized at a 7 percent discount rate. These estimates do not include non-monetized and qualitative cost/cost savings discussed in the RIA.

PHMSA's cost/cost savings analysis relies on the monetization of impacts for five petitions included in this final rule. Three of the petitions that were monetized contained cost savings, while two petitions have minor costs. One provision in particular is responsible for the vast majority of the cost savings estimated: The extension of the regulatory life of HM–246-compliant PIH tank cars from 20 years to 50 years, as allowed by FRA regulation, *see* 49 CFR 215.203, for other tank cars in its class. This regulatory life extension is expected to reduce PIH tank car replacement costs that would occur in the absence of rulemaking. Moreover, these tank cars are more robust and less likely to release material than legacy PIH tank cars, resulting in safety benefits such as reduced incident damages. The following table presents a summary of the five petitions that have monetized impacts upon codification and contribute to PHMSA's estimation of quantified net cost savings.

TABLE 1—SUMMARY OF COST/COST SAVINGS OF PETITIONS FOR REGULATORY REFORM

Monetized Costs/(Cost Savings) by Petition			
Petition No.	Petition topic	7% discount (if applicable)	3% discount (if applicable)
P–1636	PIH Tank Cars Service Life Extension Relief	($211,740,704)	($985,661,271)
P–1663	Package Weight Tolerances	(25,000,000)	(58,333,333)
P–1619	Chlorine Publications	(197,644)	(452,676)
P–1641	CGA V–9–2012 Cylinder Values and Caps	45,522	47,289
P–1657	CGA C–7–2014 Publications	99,320	103,177
Total		(236,793,506)	(1,044,296,814)
Annualized		(16,575,545)	(31,328,904)

In addition to these five items, PHMSA described an additional 14 items that are deregulatory in nature but lack of monetization of their cost savings impacts. While information gaps prevent quantification of cost savings for these items, PHMSA believes that they relax current requirements or provide additional flexibility, and therefore should be considered deregulatory in nature.

Conclusion

In conclusion, PHMSA estimates a present value of quantified net cost savings of approximately $237 million over a perpetual time horizon and $16.5 million annualized at a 7 percent discount rate. Please see the RIA in the regulatory docket for additional detail and a description of PHMSA's methods and calculations.

C. Executive Order 13132

This final rule was analyzed in accordance with the principles and criteria contained in Executive Order 13132, ''Federalism'' (64 FR 43255; Aug. 10, 1999). This final rule would preempt State, local, and Indian tribe requirements but does not impose any regulation that has substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

Federal Hazmat Law, 49 U.S.C. 5125(b)(1), contains an express preemption provision (49 U.S.C. 5125(b)) preempting State, local, and Indian tribe requirements on certain covered subjects. Covered subjects are:

(i) The designation, description, and classification of hazardous materials;

(ii) The packing, repacking, handling, labeling, marking, and placarding of hazardous materials;

(iii) The preparation, execution, and use of shipping documents related to hazardous materials and requirements related to the number, content, and placement of those documents;

(iv) The written notification, recording, and reporting of the unintentional release in transportation of hazardous materials; or

(v) The design, manufacture, fabrication, marking, maintenance, reconditioning, repair, or testing of a packaging or container which is represented, marked, certified, or sold as qualified for use in the transport of hazardous materials.

This final rule concerns the classification, packaging, marking, labeling, and handling of hazardous materials, among other covered subjects. This rule would preempt any State, local, or Indian tribe requirements concerning these subjects unless the non-Federal requirements are ''substantively the same'' as the Federal requirements. *See* 49 CFR 107.202(d).

Federal Hazmat Law provides at 49 U.S.C. 5125(b)(2) that if PHMSA issues a regulation concerning any of the covered subjects, the administration must determine and publish in the **Federal Register** the effective date of Federal preemption. That effective date may not be earlier than the 90th day following the date of issuance of the final rule and not later than 2 years after the date of issuance. PHMSA proposes the effective date of Federal preemption be 90 days from publication of a final rule in this matter in the **Federal Register**.

D. Executive Order 13175

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249; Nov. 9, 2000). Because this final rule does not have Tribal implications and does not impose substantial direct compliance costs on Indian tribal governments, the funding and consultation requirements of Executive Order 13175 do not apply, and a Tribal summary impact statement is not required.

E. Regulatory Flexibility Act, Executive Order 13272, and DOT Procedures and Policies

The Regulatory Flexibility Act, 5 U.S.C. 601 requires an agency to review regulations to assess their impact on small entities unless the agency determines the rule is not expected to have a significant impact on a substantial number of small entities. This final rule amends miscellaneous provisions in the HMR for clarification based on petitions for rulemaking. While maintaining safety, this final rule would relax certain requirements that are overly burdensome and provide clarity where requested by the regulated community. The changes are generally intended to provide relief to shippers, carriers, and packaging manufacturers, including small entities.

The Regulatory Flexibility Act directs agencies to establish exceptions and differing compliance standards for small businesses, where it is possible to do so and still meet the objectives of applicable regulatory statutes. In the case of hazardous materials transportation, it is not possible to establish exceptions or differing standards and still accomplish our safety objectives.

The changes are generally intended to provide relief to shippers, carriers, and packaging manufactures and testers, including small entities. Therefore, PHMSA certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

This final rule has been developed in accordance with Executive Order 13272, ''Proper Consideration of Small Entities in Agency Rulemaking'' (67 FR 53461; Aug. 16, 2002) and DOT's Policies and Procedures to promote compliance with the Regulatory Flexibility Act to ensure that potential impacts of draft rules on small entities are properly considered.

F. Paperwork Reduction Act

This final rule does not impose any new information collection requirements and, in one instance, marginally decreases the information collection burden on the regulated community. Specifically, the following information collection requirement is affected by this rulemaking:

OMB Control No. 2137–0034: Hazardous Materials Shipping Papers and Emergency Response Information.

Decrease in Annual Number of Respondents: 1,000.

Decrease in Annual Responses: 1,666,667.

Decrease in Annual Burden Hours: 4,629.

Decrease in Annual Burden Cost: $95,403.69.

PHMSA estimates that no longer requiring the emergency response number for limited quantity shipments by vessel will reduce the number of burden hours by 4,629. PHMSA estimates that no longer requiring the emergency response number on shipping paper will save 10 seconds per shipping paper and affect 1,666,667 shipments per year. PHMSA estimates a savings of $.06 per shipment resulting in cost savings of $95,403.69.

Please direct your requests for a copy of this final information collection to Steven Andrews or T. Glenn Foster, Office of Hazardous Materials Standards (PHH–12), Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue SE, 2nd Floor, Washington, DC 20590–0001.

G. Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in spring and fall of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

H. Unfunded Mandates Reform Act

This final rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. Public Law 104–4 (Mar. 22, 1995). It does not result in costs in any one year of $141.3 million or more to either State, local, or Tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objective of the rule.

I. Environmental Assessment

The National Environmental Policy Act, 42 U.S.C. 4321–4375, requires Federal agencies to analyze proposed actions to determine whether the action will have a significant impact on the human environment. The Council on Environmental Quality (CEQ) regulations require Federal agencies to conduct an environmental review considering: (1) The need for the proposed action; (2) alternatives to the proposed action; (3) probable environmental impacts of the proposed action and alternatives; and (4) the agencies and persons consulted during the consideration process.

Need for the Proposed Action

In response to petitions for rulemaking submitted by the regulated community, PHMSA is amending the HMR to update, clarify, or provide relief from miscellaneous regulatory requirements. In this final rule, PHMSA is implementing amendments that include, but are not limited to, the following: Incorporating by Reference multiple publications from the CGA, the Chlorine Institute, and DoD; addressing inconsistencies with domestic and international labels and placards; excepting excepted quantities from the emergency response telephone requirement; allowing electronic signatures for EPA manifest forms; and no longer requiring the service pressure to be marked on DOT 8 and 8AL cylinders.

These amendments are intended to promote safety, regulatory relief, and clarity. The proposed changes were identified in response to petitions from stakeholders affected by the HMR. These minor changes will clarify the HMR and enhance safety, while offering some net economic benefits.

This action is necessary to: (1) Fulfill our statutory directive to promote transportation safety; (2) fulfill our

statutory directive under the Administrative Procedure Act (APA) that requires Federal agencies to give interested persons the right to petition an agency to issue, amend, or repeal a rule (5 U.S.C. 553(e)); (3) support governmental efforts to provide regulatory relief to the regulated community; (4) address safety concerns raised by petitioners and remove identified regulatory ambiguity; and (5) simplify and clarify the regulations in order to promote understanding and compliance.

The intended effect of this action is to enhance the safe transportation of hazardous materials and, in conjunction, clarify, simplify, and relax certain regulatory requirements for carriers, shippers, and other stakeholders. These regulatory revisions will offer more efficient and effective ways of achieving PHMSA's goal of safe and secure transportation, protecting both people and the environment, of hazardous materials in commerce.

Alternatives

In developing the final rule, PHMSA considered the following alternatives:

Alternative 1: No Action

If PHMSA chose this alternative, we would not proceed with any rulemaking on this subject and the current regulatory standards would remain in effect. This option would not address outstanding petitions for rulemaking. We rejected the No Action Alternative.

Alternative 2: Go Forward With the Proposed Amendments to the HMR in This NPRM

This alternative is the current proposal as it appears in this final rule, applying to transport of hazardous materials by highway, rail, vessel, and aircraft. The amendments encompassed in this alternative are more fully addressed in the preamble and regulatory text sections of this rulemaking.

Probable Environmental Impacts of the Alternatives

When developing potential regulatory requirements, PHMSA considers the environmental impact of each amendment. Specifically, PHMSA evaluates the: Risk of release and resulting environmental impact; risk to human safety, including any risk to first responders; longevity of the packaging; and if the proposed regulation would be carried out in a defined geographic area, the resources, especially any sensitive areas, and how they could be impacted by any proposed regulations. Of the regulatory changes proposed in this rulemaking, most have been determined to be clarification, technology/design updates, harmonization, regulatory flexibility, standard incorporation, or editorial in nature. As such, these amendments have little or no impact on the risk of release and resulting environmental impact; human safety; or longevity of the packaging. None of these amendments would be carried out in a defined geographic area (*i.e.,* this is a nationwide rulemaking).

Alternative 1: No Action

If PHMSA were to select the No Action Alternative, current regulations would remain in place and no new provisions would be added. However, efficiencies gained through harmonization in updates to transport standards, lists of regulated substances, definitions, packagings, markings requirements, shipper requirements, modal requirements, etc., would not be realized. Foregone efficiencies in the No Action Alternative also include freeing up limited resources to concentrate on hazardous materials transportation issues of potentially much greater environmental impact. Not adopting the proposed environmental and safety requirements under the No Action Alternative would result in a lost opportunity for reducing negative environmental and safety-related impacts. Greenhouse gas emissions would remain the same under the No Action Alternative.

Alternative 2: Go forward With the Proposed Amendments to the HMR in This NPRM

This Preferred Alternative encompasses enhanced and clarified regulatory requirements, which would result in increased compliance and fewer negative environmental and safety impacts. The table below summarizes possible environmental benefits and any potential negative impacts for the amendments in this final rule. A detailed discussion on the potential environmental impacts of each type of amendment is included in the complete Environmental Assessment placed in the docket for this rulemaking.

SUMMARY OF PROBABLE ENVIRONMENTAL IMPACTS BY AMENDMENTS

Proposed amendment(s) to HMR (numbered as above herein)	Type of amendment(s)	Probable environmental impact(s) anticipated
1. Cargo Tank Specification	Regulatory Clarity	No impacts—slightly positive benefits.
2. Chlorine Institute Publications	Update (Publications)	No impacts—slightly positive benefits.
3. International Label and Placard Consistency	Harmonization	Slightly positive benefits.
4. Limited Quantities of Ammonium Nitrate by Vessel.	Exception	No impacts.
5. Use of Combination Packages Tested with a Liquid.	Regulatory Flexibility	Very slight, negligible, or no impacts.
6. Shipping Names for Roadway Stripping Vehicles.	Editorial	No impacts.
7. Toxic by Inhalation (TIH) Tank Car Lifespan	Regulatory Flexibility	No impacts.
8. Limited Quantity Pallets	Regulatory Flexibility	No impacts—slightly positive benefits.
9. Emergency Response Numbers	Harmonization	No impacts.
10. Units of Measurement for Limited Quantities of Ethyl Alcohol.	Harmonization/Editorial	No impacts.
11. Cylinder Valves and Protection Caps	Standard Incorporation	No impacts—slightly positive benefits.
12. Recordkeeping Requirements for Portable Tanks.	Regulatory Clarity, Harmonization	No impacts—slightly positive benefits.
13. Printing Tolerances for Labels and Placards	Regulatory Flexibility	Slightly positive benefits.
14. Incorporation of Department of Defense (DoD) Standards.	Standard Incorporation	Slightly positive—moderate benefits.
15. Service Pressure Marking for DOT 8 and DOT 8L Cylinders.	Regulatory Flexibility	No impacts.

SUMMARY OF PROBABLE ENVIRONMENTAL IMPACTS BY AMENDMENTS—Continued

Proposed amendment(s) to HMR (numbered as above herein)	Type of amendment(s)	Probable environmental impact(s) anticipated
16. Incorporation of CGA Publications	Standard Incorporation	No impacts—slightly positive benefits.
17. Use of Electronic Manifest	Update (Technology/Design), Regulatory Flexibility.	No impacts—slightly positive benefits.
18. Marked Date of Manufacture on Composite IBCs.	Harmonization	No impacts—slightly positive benefits.
19. Basis Weight Tolerances for Liners and Mediums Used in the Manufacture of Specification UN 4G Boxes.	Regulatory Flexibility	No impacts.

Preferred Alternative

PHMSA has selected the Preferred Alternative. As discussed in the table above, we expect no or very slight positive environmental impacts from the Preferred Alternative.

Agencies Consulted

This final rule would affect some PHMSA stakeholders, including hazardous materials shippers and carriers by highway, rail, vessel, and aircraft, as well as package manufacturers and testers. PHMSA sought comment on the Environmental Assessment contained in the June 30, 2016, NPRM published under Docket No. PHMSA 2015–0102 [81 FR 42609] (HM–219A); however, PHMSA did not receive any comments. In addition, PHMSA sought comment from the following Federal agencies and modal partners:

- Department of Defense
- Environmental Protection Agency
- Federal Aviation Administration
- Federal Motor Carrier Safety Administration
- Federal Railroad Administration
- United States Coast Guard (USCG)

These Federal agencies did not submit to PHMSA any adverse comments on the amendments proposed in the NPRM.

Conclusion

The revisions in this final rule are intended to update, clarify, or provide relief from certain existing regulatory requirements to promote safer transportation practices; eliminate unnecessary regulatory requirements; facilitate international commerce; and make these requirements easier to understand. These amendments will foster a greater level of compliance with the HMR, and thus the net environmental impact of this proposal will be slightly positive.

The provisions of this final rule build on current regulatory requirements to enhance the transportation safety and security of shipments of hazardous materials transported by highway, rail, aircraft, and vessel, thereby reducing the risks of an accidental or intentional release of hazardous materials and consequent environmental damage. PHMSA believes that there are no non-negligible environmental impacts associated with this final rule.

J. Privacy Act

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the document (or signing the document, if submitted on behalf of an association, business, labor union, etc.). DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

K. Executive Order 13609 and International Trade Analysis

Under Executive Order 13609, ''Promoting International Regulatory Cooperation'' (77 FR 26413; May 4, 2012), agencies must consider whether the impacts associated with significant variations between domestic and international regulatory approaches are unnecessary or may impair the ability of American business to export and compete internationally. In meeting shared challenges involving health, safety, labor, security, environmental, and other issues, international regulatory cooperation can identify approaches that are at least as protective as those that are or would be adopted in the absence of such cooperation. International regulatory cooperation can also reduce, eliminate, or prevent unnecessary differences in regulatory requirements.

Similarly, the Trade Agreements Act of 1979 (Pub. L. 96–39), as amended by the Uruguay Round Agreements Act (Pub. L. 103–465), prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. For purposes of these requirements, Federal agencies may participate in the establishment of international standards, so long as the standards have a legitimate domestic objective, such as providing for safety, and do not operate to exclude imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards.

PHMSA participates in the establishment of international standards in order to protect the safety of the American public, and we have assessed the effects of the final rule to ensure that it does not cause unnecessary obstacles to foreign trade. Accordingly, this rulemaking is consistent with Executive Order 13609 and PHMSA's obligations under the Trade Agreement Act, as amended.

L. National Technology Transfer and Advancement Act

The National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) directs Federal agencies to use voluntary consensus standards in their regulatory activities unless doing so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specification of materials, test methods, or performance requirements) that are developed or adopted by voluntary consensus standard bodies. This final rule involves multiple voluntary consensus standards which are discussed at length in the ''Section-by-Section Review'' for § 171.7.

List of Subjects

49 CFR Part 171

Exports, Hazardous materials transportation, Hazardous waste, Imports, Incorporation by reference, Reporting and recordkeeping requirements, Definitions and abbreviations.

49 CFR Part 172

Education, Hazardous materials transportation, Hazardous waste, Incorporation by reference, Labeling, Markings, Packaging and containers, Reporting and recordkeeping requirements.

49 CFR Part 173

Hazardous materials transportation, Incorporation by reference, Training, Packaging and containers, Reporting and recordkeeping requirements.

49 CFR Part 176

Hazardous materials transportation, Maritime carriers, Reporting and recordkeeping requirements.

49 CFR Part 178

Hazardous materials transportation, Incorporation by reference, Motor vehicle safety, Packaging and containers, Reporting and recordkeeping requirements.

49 CFR Part 180

Hazardous materials transportation, Motor carriers, Motor vehicle safety, Packaging and containers, Railroad safety, Reporting and recordkeeping requirements.

In consideration of the foregoing, we are amending 49 CFR chapter I as follows:

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

■ 1. The authority citation for part 171 continues to read as follows:

Authority: 49 U.S.C. 5101–5128, 44701; Pub. L. 101–410, section 4 (28 U.S.C. 2461 note); Pub. L. 104–121, sections 212–213; Pub. L. 104–134, section 31001; 49 CFR 1.81 and 1.97.

■ 2. Amend § 171.7 by:
■ a. Revising paragraphs (l)(1), (2), and (5), redesignating paragraphs (l)(7) through (11) as (l)(8) through (12) and adding new paragraph (l)(7);
■ b. Revising paragraph (n)(7) and adding new paragraph (n)(23);
■ c. Revising paragraph (o);
■ d. In paragraphs (t)(1) and (v)(2), adding ''172.407'' to the list of sections in numerical order;
■ e. In paragraph (y)(1), adding ''173.301(a)(11)'' to the end of the list of sections;
■ f. In the introductory text of paragraph (bb)(1), add ''172.407'' to the list of sections in numerical order; and
■ g. In paragraph (dd)(1), add ''172.519'' to the list of sections in numerical order.

The revisions and additions read as follows.

§ 171.7 Reference material.

* * * * *

(l) * * *

(1) Chlorine Institute Emergency Kit ''A'' for 100-lb. & 150-lb. Chlorine Cylinders, Edition 12, Revision 2, January 2014, into § 173.3.

(2) Chlorine Institute Emergency Kit ''B'' for Chlorine Ton Containers, Edition 11, July 2014, into § 173.3.

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(5) Pamphlet 57, Emergency Shut-Off Systems for Bulk Transfer of Chlorine, Edition 6, June 2015, into § 177.840.

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(7) Pamphlet 168, Guidelines for Dual Valve Systems for Bulk Chlorine Transport, Edition 2, July 2015, into § 178.337–9.

* * * * *

(n) * * *

(7) CGA C–7–2014, Guide to Classification and Labeling of Compressed Gases, Tenth Edition, copyright 2014, into § 172.400a.

* * * * *

(23) CGA V–9–2012, Compressed Gas Association Standard for Compressed Cylinder Valves, Seventh Edition, 2012, into § 173.301.

* * * * *

(o) *Department of Defense (DoD),* DoD Explosives Safety Board, 4800 Mark Center Drive, Suite 16E12, Alexandria, VA 22350, *https://www.ddesb.pentagon.mil/;* or Defense Logistics Agency, Technical and Quality Assurance Division, 8725 John J. Kingman Rd., Fort Belvoir, VA 22060, *http://www.dla.mil/Pages/default.aspx.*

(1) TB 700–2; NAVSEAINST 8020.8C/TO 11A–1–47: DOD Ammunition and Explosives Hazard Classification Procedures, July 30, 2012, into § 173.56.

(2) DLAR 4145.41/AR 700–143/NAVSUPINST 4030.55D/AFMAN 24–210_IP/MCO 4030.40C: Packaging of Hazardous Material, April 21, 2015, into § 173.7.

* * * * *

PART 172—HAZARDOUS MATERIALS TABLE, SPECIAL PROVISIONS, HAZARDOUS MATERIALS COMMUNICATIONS, EMERGENCY RESPONSE INFORMATION, AND TRAINING REQUIREMENTS

■ 3. The authority citation for part 172 continues to read as follows:

Authority: 49 U.S.C. 5101–5128, 44701; 49 CFR 1.81, 1.96 and 1.97.

■ 4. Amend § 172.205 by adding paragraph (j) to read as follows:

§ 172.205 Hazardous waste manifest.

* * * * *

(j) Electronic manifests that are obtained, completed, and transmitted in accordance with 40 CFR262.20(a)(3), and used in accordance with 40 CFR 262.24 in lieu of EPA Forms 8700–22 and 8700–22A are the legal equivalent of paper manifest forms bearing handwritten signatures, and satisfy for all purposes any requirements in these regulations to obtain, complete, sign, provide, use, or retain a manifest. Electronic signatures in conformance with 40 CFR 262.25 are therefore acceptable in lieu of handwritten signatures required by paragraphs (c) and (d) of this section provided one printed copy of the electronic manifest bearing the electronic signature is provided to the initial transporter as required by 40 CFR 262.24(d). A copy of the electronic manifest would satisfy the 3-year retention requirement for maintaining a copy of the manifest.

* * * * *

■ 5. Amend § 172.407 by revising paragraphs (c) and (f) to read as follows:

§ 172.407 Label specifications.

* * * * *

(c) *Size.* (1) Each diamond (square-on-point) label prescribed in this subpart must be at least 100 mm (3.9 inches) on each side with each side having a solid line inner border approximately 5 mm inside and parallel to the edge. The 5 mm measurement must be located from the outside edge of the label to the outside of the solid line forming the inner border. The width of the solid line forming the inner border must be at least 2 mm.

(i) If the size of the package so requires, the dimensions of the label and its features may be reduced provided the symbol and other elements of the label remain clearly visible. The solid line forming the inner border must remain approximately 5 mm from the outside edge of the label and the minimum width of the line must remain 2 mm.

(ii) Where dimensions are not specified, all features shall be in approximate proportion to those shown in §§ 172.411 through 172.448 of this subpart, as appropriate.

(iii) Transitional exceptions for domestic transportation, a label in conformance with the requirements of 49 CFR 172.407(c)(1) (revised as of October 1, 2014), may continue to be used until December 31, 2018.

(iv) For domestic transportation, a packaging labeled prior to January 1, 2017, and in conformance with the requirements of this paragraph in effect on December 31, 2014, may continue in service until the end of its useful life.

(2) The CARGO AIRCRAFT ONLY label must be a rectangle measuring at

least 110 mm (4.3 inches) in height by 120 mm (4.7 inches) in width. The words ''CARGO AIRCRAFT ONLY'' must be shown in letters measuring at least 6.3 mm (0.25 inches) in height.

(3) Except as otherwise provided in this subpart, the hazard class number, or division number, as appropriate, must be at least 6.3 mm (0.25 inches) and not greater than 12.7 mm (0.5 inches).

(4) When text indicating a hazard is displayed on a label, the label name must be shown in letters measuring at least 7.6 mm (0.3 inches) in height. For SPONTANEOUSLY COMBUSTIBLE or DANGEROUS WHEN WET labels, the words ''Spontaneously'' and ''When Wet'' must be shown in letters measuring at least 5.1 mm (0.2 inches) in height.

(5) The symbol on each label must be proportionate in size to that shown in the appropriate section of this subpart.

* * * * *

(f) *Exceptions.* Except for materials poisonous by inhalation (see § 171.8 of this subchapter), a label conforming to specifications in the UN Recommendations, the ICAO Technical Instructions, the IMDG Code, or the Transport Canada TDG Regulations (IBR, see § 171.7 of this subchapter) may be used in place of a corresponding label that conforms to the requirements of this subpart.

* * * * *

■ 6. Amend § 172.519 by revising paragraphs (c) and (f) to read as follows:

§ 172.519 General specifications for placards.

* * * * *

(c) *Size.* (1) Each diamond (square-on-point) placard prescribed in this subpart must measure at least 250 mm (9.84 inches) on each side and must have a solid line inner border approximately 12.5 mm inside and parallel to the edge. The 12.5 mm measurement is from the outside edge of the placard to the outside of the solid line forming the inner border.

(i) *Transitional exceptions.* A placard in conformance with the requirements of this paragraph in effect on December 31, 2014, may continue to be used until December 31, 2016.

(ii) *Domestic transportation.* A placard manufactured prior to January 1, 2017, in conformance with the requirements of this paragraph in effect on December 31, 2014, may continue in service until the end of its useful life provided the color tolerances are maintained and are in accordance with the display requirements of this subchapter.

(2) Except as otherwise provided in this subpart, the hazard class or division number, as appropriate, must be shown in numerals measuring at least 41 mm (1.6 inches) in height.

(3) Except as otherwise provided in this subpart, when text indicating a hazard is displayed on a placard, the printing must be in letters measuring at least 41 mm (1.6 inches) in height.

* * * * *

(f) *Exceptions.* When hazardous materials are offered for transportation or transported under the provisions of subpart C of part 171 of this subchapter, a placard conforming to the specifications in the UN Recommendations, the ICAO Technical Instructions, the IMDG Code, or the Transport Canada TDG Regulations (IBR, see § 171.7 of this subchapter) may be used in place of a corresponding placard conforming to the requirements of this subpart. However, a bulk packaging, transport vehicle, or freight container containing a material poisonous by inhalation (see § 171.8 of this subchapter) must be placarded in accordance with this subpart (see § 171.23(b)(10) of this subchapter).

* * * * *

■ 7. Amend § 172.604 by revising paragraph (d) to read as follows:

§ 172.604 Emergency response telephone number.

* * * * *

(d) The requirements of this section do not apply to—

(1) Hazardous materials that are offered for transportation under the provisions applicable to limited quantities or excepted quantities; or

(2) Materials properly described under the following shipping names:

(i) Battery powered equipment.
(ii) Battery powered vehicle.
(iii) Carbon dioxide, solid.
(iv) Castor bean.
(v) Castor flake.
(vi) Castor meal.
(vii) Castor pomace.
(viii) Consumer commodity.
(ix) Dry ice.
(x) Engines, internal combustion.
(xi) Fish meal, stabilized.
(xii) Fish scrap, stabilized.
(xiii) Krill Meal, PG III.
(xiv) Refrigerating machine.
(xv) Vehicle, flammable gas powered.
(xvi) Vehicle, flammable liquid powered.
(xvii) Wheelchair, electric.

(3) Transportation vehicles or freight containers containing lading that has been fumigated and displaying the FUMIGANT marking (see § 172.302(g)) as required by § 173.9 of this subchapter, unless other hazardous materials are present in the cargo transport unit.

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

■ 8. The authority citation for part 173 continues to read as follows:

Authority: 49 U.S.C. 5101–5128, 44701; 49 CFR 1.81, 1.96 and 1.97.

§ 173.3 [Amended]

■ 9. Amend § 173.3 by:

■ a. In paragraph (e)(1), adding ''(with the exception of repair method using Device 8 for side leaks)'' immediately after the phrase ''Chlorine Institute Emergency Kit ''A''; and

■ b. In paragraph (e)(2), adding ''(with the exception of repair method using Device 9 for side leaks)'' immediately after the phrase ''Chlorine Institute Emergency Kit ''B''.

■ 10. Amend § 173.5a by revising paragraph (c)(1) to read as follows:

§ 173.5a Oilfield service vehicles, mechanical displacement meter provers, and roadway striping vehicles exceptions.

* * * * *

(c) * * *

(1) *Authorized materials.* Only the hazardous materials listed in the table 1 to this paragraph (c)(1) may be transported in roadway striping vehicles. Cargo tanks may not be filled to a capacity that would be greater than liquid full at 130 °F.

TABLE 1 TO PARAGRAPH (c)(1)—HAZARDOUS MATERIALS DESCRIPTION

Proper shipping name	Hazard class/ division	Identification No.	Packing group
Acetone [a]	3	UN1090	II.
Adhesives, *containing a flammable liquid*	3	UN1133	II.
Amines, liquid, corrosive, n.o.s.[b] or Polyamines, liquid, corrosive, n.o.s [b]	8	UN2735	III.
Corrosive liquid, basic, organic, n.o.s [b]	8	UN3267	III.
Corrosive liquids, n.o.s [b]	8	UN1760	III.

TABLE 1 TO PARAGRAPH (c)(1)—HAZARDOUS MATERIALS DESCRIPTION—Continued

Proper shipping name	Hazard class/ division	Identification No.	Packing group
Dichloromethane [a]	6.1	UN1593	III.
Elevated temperature liquid, n.o.s., *at or above 100 °C and below its flash point (including molten metals, molten salts, etc.)* [c].	9	UN3257	III.
Environmentally hazardous substance, liquid, n.o.s [b]	9	UN3082	III.
Ethyl acetate [a]	3	UN1173	II.
Ethyl methyl ketone or Methyl ethyl ketone [a]	3	UN1193	II.
Flammable liquids, n.o.s [d]	3	UN1993	II.
Gasoline	3	UN1203	II.
Methanol [a]	3	UN1230	II.
Organic peroxide type E, liquid (Dibenzoyl peroxide) [b]	5.2	UN3107	NA.
Paint *including paint, lacquer, enamel, stain, shellac solution, varnish, polish, liquid filler, and liquid lacquer base.*	3	UN1263	II.
Paint related material *including paint thinning drying, removing, or reducing compound*	3	UN1263	II.
Petroleum distillates, n.o.s. *or* Petroleum products, n.o.s [a]	3	UN1268	III.
Toluene [a]	3	UN1294	II.
1,1,1-Trichloroethane [a]	6.1	UN2831	III.
Xylenes [a]	3	UN1307	II, III.

[a]: Solvent.
[b]: Catalyst.
[c]: Thermoplastic material non-hazardous at room temperature.
[d]: Adhesive containing ethyl acetate.

* * * * *

§ 173.7 [Amended]

■ 11. Amend § 173.7, by removing in the introductory text of paragraph (a) ''DLAD 4145.41/AR 700–143/AFJI 24–210/NAVSUPINST 4030.55B/MCO 4030.40B'' and adding in its place ''DLAR 4145.41/AR 700–143/NAVSUPINST 4030.55D/AFMAN 24–210_IP/MCO 4030.40C''.

■ 12. Amend § 173.24a by revising paragraphs (b)(1) and (b)(3) to read as follows:

§ 173.24a Additional general requirements for non-bulk packagings and packages.

* * * * *

(b) * * * (1) A non-bulk packaging not exceeding 400 kg may be filled with a liquid hazardous material only when the specific gravity of the material or gross mass of the package does not exceed that marked on the packaging, or a specific gravity of 1.2 if not marked, except as follows:

(i) A Packing Group I packaging may be used for a Packing Group II material with a specific gravity not exceeding the greater of 1.8, or 1.5 times the specific gravity or gross mass of the package marked on the packaging, provided all the performance criteria can still be met with the higher specific gravity material;

(ii) A Packing Group I packaging may be used for a Packing Group III material with a specific gravity not exceeding the greater of 2.7, or 2.25 times the specific gravity or gross mass of the package marked on the packaging, provided all the performance criteria can still be met with the higher specific gravity material; and

(iii) A Packing Group II packaging may be used for a Packing Group III material with a specific gravity not exceeding the greater of 1.8, or 1.5 times the specific gravity or gross mass of the package marked on the packaging, provided all the performance criteria can still be met with the higher specific gravity material.

* * * * *

(3) A non-bulk packaging not exceeding 400 kg which is tested and marked for liquid hazardous materials may be filled with a solid hazardous material to a gross mass, in kilograms, not exceeding the rated capacity of the packaging in liters, or gross mass of the package, multiplied by the specific gravity or gross mass of the package marked on the packaging, or 1.2 if not marked. In addition:

(i) A non-bulk packaging not exceeding 400 kg which is tested and marked for Packing Group I liquid hazardous materials may be filled with a solid Packing Group II hazardous material to a gross mass, in kilograms, not exceeding the rated capacity of the packaging in liters, or gross mass of the package, multiplied by 1.5, multiplied by the specific gravity or gross mass of the package marked on the packaging, or 1.2 if not marked.

(ii) A non-bulk packaging not exceeding 400 kg which is tested and marked for Packing Group I liquid hazardous materials may be filled with a solid Packing Group III hazardous material to a gross mass, in kilograms, not exceeding the rated capacity of the packaging in liters, or gross mass of the package, multiplied by 2.25, multiplied by the specific gravity or gross mass of the package marked on the packaging, or 1.2 if not marked.

(iii) A non-bulk packaging not exceeding 400 kg which is tested and marked for Packing Group II liquid hazardous materials may be filled with a solid Packing Group III hazardous material to a gross mass, in kilograms, not exceeding the rated capacity of the packaging in liters, or gross mass of the package, multiplied by 1.5, multiplied by the specific gravity or gross mass of the package marked on the packaging, or 1.2 if not marked.

* * * * *

■ 13. Amend § 173.31 by revising paragraph (e) to read as follows:

§ 173.31 Use of tank cars.

* * * * *

(e) *Special requirements for materials poisonous by inhalation*—(1) *Interior heater coils.* Tank cars used for materials poisonous by inhalation may not have interior heater coils.

(2) *Tank car specifications.* A tank car used for a material poisonous by inhalation must have a tank test pressure of 20.7 Bar (300 psig) or greater, head protection, and a metal jacket (*e.g.,* DOT 105S300W), except that—

(i) A higher test pressure is required if otherwise specified in this subchapter; and

(ii) Each tank car constructed on or after March 16, 2009, and used for the transportation of PIH materials must meet the applicable authorized tank car specifications and standards listed in § 173.244(a)(2) or (3) and § 173.314(c) or (d).

(iii) [Reserved]

(iv) A tank car owner retiring or otherwise removing a tank car from service transporting materials poisonous by inhalation, other than because of damage to the car, must retire or remove cars constructed of non-normalized steel in the head or shell before removing any car in service transporting materials poisonous by inhalation constructed of normalized steel meeting the applicable DOT specification.

* * * * *

§ 173.56 [Amended]

■ 14. In § 173.56 amend paragraph (b)(2)(i) by removing ''DoD Explosives Hazard Classification Procedures'' and adding in its place ''DoD Ammunition and Explosives Hazard Classification Procedures''.

■ 15. Amend § 173.150 by revising paragraph (g) to read as follows:

§ 173.150 Exceptions for Class 3 (flammable and combustible liquids).

* * * * *

(g) *Limited quantities of retail products containing ethyl alcohol.* (1) Beverages, food, cosmetics and medicines, medical screening solutions, and concentrates sold as retail products containing ethyl alcohol classed as a flammable liquid or flammable solid containing not more than 70% ethyl alcohol by volume for liquids, by weight for solids are excepted from the HMR provided that:

(i) For non-glass inner packagings:

(A) The volume does not exceed 0.47 liters (0.125 gallons) in capacity for liquids; or

(B) For volumes greater than 0.47 liters (0.125 gallons) but not exceeding 3.8 liters (1 gallon) the company name and the words ''Contains Ethyl Alcohol'' are marked on the package;

(C) Solids containing ethyl alcohol may be packaged in non-glass inner packagings not exceeding 0.45 kilograms (1 pound) capacity;

(D) For weight greater than 0.45 kilograms (1 pound) up to 3.62 kilograms (8 pounds) the company name and the words ''Contains Ethyl Alcohol'' are marked on the package.

(ii) For glass inner packagings:

(A) The volume does not exceed 0.23 liters (.063 gallons) in capacity; or

(B) For volumes greater than 0.23 liters (.063 gallons) to 0.47 liters (0.125 gallons) the company name and the words ''Contains Ethyl Alcohol'' are marked on the package;

(C) Solids containing ethyl alcohol may be packaged in glass inner packagings not exceeding 0.22 kilograms (0.5 pounds);

(D) For weight greater than 0.22 kilograms (0.5 pounds) up to 0.45 kilograms (1 pound) the company name and the words ''Contains Ethyl Alcohol'' are marked on the package.

(iii) The net liquid contents of all inner packagings in any single outer packaging may not exceed 5.6 liters (1.5 gallons). The net solid contents of all inner packagings in any single outer packaging may not exceed 14.9 kilograms (33 pounds). The gross weight of any single outer package shipped may not exceed 29.9 kilograms (66 pounds); Inner packagings must be secured and cushioned within the outer package to prevent breakage, leakage, and movement.

(2) Beverages, food, cosmetics and medicines, medical screening solutions, and concentrates sold as retail products containing ethyl alcohol classed as a flammable liquid or flammable solid containing more than 70% ethyl alcohol by volume, by weight for solids are excepted from the HMR provided that:

(i) For inner packagings containing liquids the volume does not exceed 0.23 liters (0.063 gallons) in capacity;

(ii) Solids containing ethyl alcohol are not packed in inner packagings exceeding 0.22 kilograms (0.5 pounds) in weight;

(iii) The net liquid contents of all inner packagings in any single outer packaging may not exceed 5.6 liters (1.5 gallons). The net solid contents of all inner packagings in any single outer packaging may not exceed 14.9 kilograms (33 pounds). The gross weight of any single outer package shipped may not exceed 29.9 kilograms (66 pounds). Inner packagings must be secured and cushioned within the outer package to prevent breakage, leakage, and movement.

(3) For transportation by passenger or cargo aircraft, no outer package may be transported which contains an inner packaging exceeding:

(i) 0.47 liters (0.125 gallons) of flammable liquid; or

(ii) 0.45 kilograms (1 pound) of solids containing flammable liquid.

* * * * *

■ 16. Amend § 173.156 by revising paragraph (b) to read as follows:

§ 173.156 Exceptions for limited quantity and ORM.

* * * * *

(b) Packagings for limited quantity and ORM–D are specified according to hazard class in §§ 173.150 through 173.155, 173.306, and 173.309(b). In addition to exceptions provided for limited quantity and ORM–D materials elsewhere in this part, the following are provided:

(1) Strong outer packagings as specified in this part, marking requirements specified in subpart D of part 172 of this subchapter, and the 30 kg (66 pounds) gross weight limitation when—

(i) Unitized in cages, carts, boxes or similar overpacks;

(ii) Offered for transportation or transported by:

(A) Rail;

(B) Private or contract motor carrier; or

(C) Common carrier in a vehicle under exclusive use for such service; and

(iii) Transported to or from a manufacturer, a distribution center, or a retail outlet, or transported to a disposal facility from one offeror.

(2) The 30 kg (66 pounds) gross weight limitation does not apply to packages of limited quantity materials marked in accordance with § 172.315 of this subchapter, or, until December 31, 2020, materials classed and marked as ORM–D and described as a Consumer commodity, as defined in § 171.8 of this subchapter, when offered for transportation or transported by highway or rail between a manufacturer, a distribution center, and a retail outlet provided—

(i) Inner packagings conform to the quantity limits for inner packagings specified in §§ 173.150(b), 173.152(b), 173.154(b), 173.155(b), 173.306(a) and (b), and 173.309(b), as appropriate;

(ii) The inner packagings are packed into corrugated fiberboard trays to prevent them from moving freely;

(iii) The trays are placed in a fiberboard box which is banded and secured to a metal, plastic, composite, or wooden pallet by metal, fabric, or plastic straps, to form a single palletized unit. Hazardous materials should be compatible with the pallet material;

(iv) The package conforms to the general packaging requirements of subpart B of this part; and

(v) The maximum net quantity of hazardous material permitted on one palletized unit is 250 kg (550 pounds).

* * * * *

■ 17. In § 173.301, paragraphs (a)(11) and (12) are added to read as follows:

§ 173.301 General requirements for shipment of compressed gases and other hazardous materials in cylinders, UN pressure receptacles and spherical pressure vessels.

* * * * *

(a) * * *

(11) Cylinder valves manufactured on or after November 7, 2019, used on cylinders to transport compressed gases must conform to the requirements in CGA V–9 (IBR; see § 171.7 of this subchapter). A valve for a UN pressure receptacle must conform to the

requirements of § 173.301b(c)(1). Cylinder valves used on cylinders in liquefied petroleum gas (LPG) service are permitted to comply with the requirements of NFPA 58 (IBR; see § 171.7 of this subchapter).

(12) Cylinder valve protection caps manufactured on or after November 7, 2019, must conform to the requirements of CGA V–9.

* * * * *

■ 18. In § 173.335, paragraphs (a) is revised as follows:

§ 173.335 Chemical under pressure n.o.s.

* * * * *

(a) *General requirements.* A cylinder filled with a chemical under pressure must be offered for transportation in accordance with the requirements of this section and § 172.301 of this subchapter. In addition, a DOT specification cylinder must meet the requirements in §§ 173.301a, 173.302, 173.302a, and 173.305, as applicable. UN pressure receptacles must meet the requirements in §§ 173.301b, 173.302b, and 173.304b as applicable. Where more than one section applies to a cylinder, the most restrictive requirements must be followed. These materials are not subject to the cylinder valve cap requirements in § 173.301(a)(11) and (12).

* * * * *

PART 176—CARRIAGE BY VESSEL

■ 19. The authority citation for part 176 continues to read as follows:

Authority: 49 U.S.C. 5101–5128; 49 CFR 1.81 and 1.97.

■ 20. In § 176.415, paragraph (b)(5) is added to read as follows:

§ 176.415 Permit requirements for Division 1.5, ammonium nitrates, and certain ammonium nitrate fertilizers.

* * * * *

(b) * * *

(5) Ammonium nitrate, Division 5.1 (oxidizer) UN1942, shipped as a limited quantity, if the nearest COTP is notified at least 24 hours in advance of any loading or unloading in excess of 454 kg (1,000 pounds).

* * * * *

PART 178—SPECIFICATIONS FOR PACKAGINGS

■ 21. The authority citation for part 178 continues to read as follows:

Authority: 49 U.S.C. 5101–5128; 49 CFR 1.81 and 1.97.

■ 22. In § 178.35, paragraph (f)(7) is added to read as follows:

§ 178.35 General requirements for specification cylinders.

* * * * *

(f) * * *

(7) *Marking exceptions.* A DOT 8 or 8AL cylinder is not required to be marked with the service pressure.

* * * * *

■ 23. Amend § 178.337–9 by revising paragraph (b)(8) to read as follows:

§ 178.337–9 Pressure relief devices, piping, valves, hoses and fittings.

* * * * *

(b) * * *

(8) *Chlorine cargo tanks.* Angle valves on cargo tanks intended for chlorine service must conform to the standards of the Chlorine Institute, Inc., Drawing; Dwg. 104–8; or ''Section 3, Pamphlet 166, Angle Valve Guidelines for Chlorine Bulk Transportation;'' or ''Sections 4 through 6, Pamphlet 168, Guidelines for Dual Valve Systems for Bulk Chlorine Transport'' (IBR, see § 171.7 of this subchapter). Before installation, each angle valve must be tested for leakage at not less than 225 psig using dry air or inert gas.

* * * * *

■ 24. Amend § 178.516 by revising paragraph (b)(7) to read as follows:

§ 178.516 Standards for fiberboard boxes.

* * * * *

(b) * * *

(7) Authorization to manufacture, mark, and sell UN4G combination packagings with outer fiberboard boxes and with inner fiberboard components that have individual containerboard or paper wall basis weights that vary by not more than plus or minus 10% from the nominal basis weight reported in the initial design qualification test report.

* * * * *

■ 25. Amend § 178.703 by revising paragraph (b)(6) to read as follows:

§ 178.703 Marking of IBCs.

* * * * *

(b) * * *

(6) For each composite IBC, the inner receptacle must be marked with at least the following information:

(i) The code number designating the IBC design type, the name and address or symbol of the manufacturer, the date of manufacture and the country authorizing the allocation of the mark as specified in paragraph (a) of this section. The date of manufacture of the inner receptacle may be different from the marked date of manufacture required by § 178.703(a)(1)(iv) or by § 180.352(d)(1)(iv) of this subchapter; and

(ii) When a composite IBC is designed in such a manner that the outer casing is intended to be dismantled for transport when empty (such as, for the return of the IBC for reuse to the original consignor), each of the parts intended to be detached when so dismantled must be marked with the month and year of manufacture and the name or symbol of the manufacturer.

* * * * *

PART 180—CONTINUING QUALIFICATION AND MAINTENANCE OF PACKAGINGS

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

Authority: 49 U.S.C. 5101–5128; 49 CFR 1.81 and 1.97.

■ 27. Amend § 180.407 by revising paragraph (g)(1)(iv) to read as follows:

§ 180.407 Requirements for test and inspection of specification cargo tanks.

* * * * *

(g) * * *

(1) * * *

(iv) Each cargo tank must be tested hydrostatically or pneumatically to the internal pressure specified in the following table. At no time during the pressure test may a cargo tank be subject to pressures that exceed those identified in Table 1 to paragraph (g)(1)(iv):

TABLE 1 TO PARAGRAPH (g)(1)(iv)

Specification	Test pressure
MC 300, 301, 302, 303, 305, 306	The test pressure on the name plate or specification plate, or 1.5 times the MAWP, whichever is greater.
MC 304, 307	The test pressure on the name plate or specification plate, 275.8 kPa (40 psig) or 1.5 times the design pressure, whichever is greater.
MC 310, 311, 312	The test pressure on the name plate or specification plate, 20.7 kPa (3 psig) or 1.5 times the design pressure, whichever is greater.
MC 330, 331	The test pressure on the name plate or specification plate, 1.5 times either the MAWP or the re-rated pressure, whichever is applicable.

TABLE 1 TO PARAGRAPH (g)(1)(iv)—Continued

Specification	Test pressure
MC 338	The test pressure on the name plate or specification plate, 1.25 times either the MAWP or the re-rated pressure, whichever is applicable.
DOT 406	The test pressure on the name plate or specification plate, 34.5 kPa (5 psig) or 1.5 times the MAWP, whichever is greater.
DOT 407	The test pressure on the name plate or specification plate, 275.8 kPa (40 psig) or 1.5 times the MAWP, whichever is greater.
DOT 412	The test pressure on the name plate or specification plate, or 1.5 times the MAWP whichever is greater.

* * * * *

■ 28. Amend § 180.605 by revising paragraph (l) to read as follows:

§ 180.605 Requirements for periodic testing, inspection and repair of portable tanks.

* * * * *

(l) *Record retention.* (1) The owner of each portable tank or his authorized agent shall retain a written record of the date and results of all required inspections and tests, including an ASME manufacturer's date report, if applicable, and the name and address of the person performing the inspection or test, in accordance with the applicable specification. The manufacturer's data report, including a certificate(s) signed by the manufacturer, and the authorized design approval agency, as applicable, indicating compliance with the applicable specification of the portable tank, and related papers certifying that the portable tank was manufactured and tested in accordance with the applicable specification must be retained in the files of the owner, or his authorized agent, during the time that such portable tank is used for such service, except for Specifications 56 and 57 portable tanks.

(2) If the owner does not have the manufacturer's certificate required by the specification and the manufacturer's data report required by the ASME, the owner may contact the National Board for a copy of the manufacturer's data report, if the portable tank was registered with the National Board, or copy the information contained on the portable tanks specification plate and ASME Code data plates.

Issued in Washington, DC, on October 29, 2018, under authority delegated in 49 CFR 1.97.

Drue Pearce,

Deputy Administrator, Pipeline and Hazardous Materials Safety Administration.

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H.R. 1037/P.L. 115–275
To authorize the National Emergency Medical Services Memorial Foundation to establish a commemorative work in the District of Columbia and its environs, and for other purposes. (Nov. 3, 2018; 132 Stat. 4164)

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