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Contents

Federal Register

Vol. 84, No. 46

Friday, March 8, 2019

Agricultural Marketing Service

RULES

Pecans Grown in Alabama, Arkansas, Arizona, California, Florida, Georgia, Kansas, Louisiana, et. al.: Reporting Requirements, 8409–8411

Agriculture Department

See Agricultural Marketing Service

See Animal and Plant Health Inspection Service

Animal and Plant Health Inspection Service

PROPOSED RULES

Administrative Changes to the Regulations Governing the National Veterinary Accreditation Program, 8476–8479

Antitrust Division

NOTICES

Changes under the National Cooperative Research and Production Act:
Halon Alternatives Research Corp., Inc., 8545
Petroleum Environmental Research Forum, 8545

Army Department

NOTICES

Meetings:

Army Education Advisory Committee, 8512

Bureau of Consumer Financial Protection

PROPOSED RULES

Residential Property Assessed Clean Energy Financing, 8479–8482

Children and Families Administration

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Tribal Maternal, Infant, and Early Childhood Home Visiting Program Demographic and Service Utilization Data Form, 8528

Coast Guard

RULES

Drawbridge Operations:

Mill Basin, Brooklyn, NY, 8418–8420

Safety Zone:

Oregon Inlet, Dare County, NC, 8420–8422

PROPOSED RULES

Safety Zone:

Cocos Lagoon, Merizo, GU, 8489–8490

Commerce Department

See First Responder Network Authority

See Industry and Security Bureau

See National Oceanic and Atmospheric Administration

See National Telecommunications and Information Administration

Committee for Purchase From People Who Are Blind or Severely Disabled

NOTICES

Procurement List; Additions and Deletions, 8511–8512

Comptroller of the Currency

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Interagency Appraisal Complaint Form; Correction, 8579

Defense Department

See Army Department

See Navy Department

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 8515
Privacy Act; System of Records, 8513–8515

Energy Department

See Energy Information Administration

See Federal Energy Regulatory Commission

RULES

Energy Conservation Program:
Standards for Ceiling Fan Light Kits; Correction, 8411–8413

NOTICES

Energy Conservation Program for Consumer Products:
Representative Average Unit Costs of Energy, 8516–8517

Energy Information Administration

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 8517–8518

Environmental Protection Agency

RULES

Air Quality State Implementation Plans; Approvals and Promulgations:
Emissions Monitoring Provisions in State Implementation Plans Required Under the NO_x SIP Call, 8422–8443

PROPOSED RULES

Air Quality State Implementation Plans; Approvals and Promulgations:
Indiana; Volatile Organic Liquid Storage Tank Rules, 8491–8492
Ohio; Redesignation of the Lake County Sulfur Dioxide Nonattainment Area, 8492–8496

Criteria for Municipal Solid Waste Landfills, 8496

NOTICES

Environmental Impact Statements; Availability, etc.:
Weekly Receipts, 8524

Meetings:

Board of Scientific Counselors Chemical Safety for Sustainability Subcommittee, 8525

Chartered Clean Air Scientific Advisory Committee;

Teleconference, 8523–8524

Mobile Sources Technical Review Subcommittee, 8523

Farm Credit System Insurance Corporation

NOTICES

Meetings:

Farm Credit System Insurance Corporation Board, 8526

Federal Aviation Administration

RULES

Establishment of Class E Airspace:
Auburn, NE, 8415–8416

Williston, ND, 8414–8415
 Revocation of Class E Airspace:

Beeville-Chase Field, TX, 8413–8414

PROPOSED RULES

Airworthiness Directives:

328 Support Services GmbH (Type Certificate Previously Held by AvCraft Aerospace GmbH; Fairchild Dornier GmbH; Dornier Luftfahrt GmbH) Airplanes, 8482–8485

Federal Communications Commission

RULES

IP CTS Improvements and Program Management, 8457–8463

Service Rules for the 698–746, 747–762, and 777–792 Bands, 8443–8457

PROPOSED RULES

Petition for Reconsideration of a Declaratory Ruling on Regulatory Status of Wireless Messaging Service, 8497

NOTICES

Charter Renewal:

Communications Security, Reliability, and Interoperability Council, 8526

Federal Energy Regulatory Commission

NOTICES

Combined Filings, 8518–8521

Complaints:

Cube Yadkin Generation, LLC v. PJM Interconnection, LLC, 8523

Environmental Assessments; Availability, etc.:

Gulf South Pipeline Company, LP; Willis Lateral Project, 8522

Filing:

Louisiana Energy and Power Authority, 8519

Initial Market-Based Rate Filings Including Requests for Blanket Section 204 Authorizations:

First Choice Energy LLC, 8519–8520

Federal Highway Administration

NOTICES

Final Federal Agency Actions:

Utah; Proposed Highway, 8559–8560

Surface Transportation Project Delivery Program:

Ohio Department of Transportation Audit Report, 8560–8563

Federal Maritime Commission

NOTICES

Agreements Filed, 8526

Federal Motor Carrier Safety Administration

RULES

Regulatory Guidance:

Commercial Driver's License Standards, Requirements and Penalties, 8464–8474

PROPOSED RULES

Qualification of Drivers; Employment Application, 8497–8501

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:

Hours of Service of Drivers Regulations, 8563–8565

Hours of Service of Drivers:

R.J. Corman Railroad Services, Cranemasters, Inc., and National Railroad Construction and Maintenance Association, Inc., 8565–8566

Federal Reserve System

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 8527

Proposals to Engage in or to Acquire Companies Engaged in Permissible Nonbanking Activities, 8527

First Responder Network Authority

NOTICES

Meetings:

Combined Committee and Board, 8502

Fish and Wildlife Service

NOTICES

Meetings:

North American Wetlands Conservation Council; Teleconference, 8541–8542

Food and Drug Administration

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:

Center for Devices and Radiological Health Appeals Processes, 8530–8532

Suffix for the Proper Name of a Biological Product, 8532–8533

Guidance:

Nonproprietary Naming of Biological Products, 8534–8536

Meetings:

Pediatric Advisory Committee, 8528–8530

Health and Human Services Department

See Children and Families Administration

See Food and Drug Administration

See Indian Health Service

See National Institutes of Health

Homeland Security Department

See Coast Guard

Indian Health Service

NOTICES

Indian Health Professions Preparatory, Indian Health

Professions Pre-Graduate and Indian Health Professions

Scholarship Programs, 8536–8541

Industry and Security Bureau

PROPOSED RULES

Commerce Control List for Items Transferred from United States Munitions List Categories IV and XV, 8485–8486

NOTICES

National Security Investigation of Imports of Titanium

Sponge, 8503–8504

Interior Department

See Fish and Wildlife Service

See Land Management Bureau

See Office of Natural Resources Revenue

Internal Revenue Service

PROPOSED RULES

Meetings:

Regulations Reducing Burden under FATCA and Chapter 3; Hearing, 8488

Rules Regarding Certain Hybrid Arrangements; Hearing, 8488–8489

International Trade Commission**NOTICES**

Investigations; Determinations, Modifications, and Rulings, etc.:

- Certain Sleep-Disordered Breathing Treatment Mask Systems and Components Thereof, 8544–8545
- Silicomanganese from India, Kazakhstan, and Venezuela, 8544

Justice Department

See Antitrust Division

Land Management Bureau**NOTICES**

Environmental Impact Statements; Availability, etc.:

- Proposed Gemfield Mine Project, Esmeralda County, NV, 8542–8543

Plats of Survey:

- Idaho, 8542

Management and Budget Office**NOTICES**

Final Sequestration Report to the President and Congress for Fiscal Year 2019, 8546

Maritime Administration**NOTICES**

Deepwater Port License Application:

- Texas COLT, LLC, 8567–8570

Requests for Administrative Waivers of the Coastwise Trade Laws:

- Vessel BREAK TIME, 8574–8575
- Vessel IRISH ROVER, 8578–8579
- Vessel ISLAND GIRL, 8570–8571
- Vessel KADIDDLEHOPPER, 8566–8567
- Vessel NORTHSTREAM, 8577–8578
- Vessel SUA SPONTE, 8575–8576
- Vessel WILD DUCK, 8576–8577

Small Shipyard Grant Program; Application Deadlines, 8571–8574

National Endowment for the Arts**NOTICES**

Meetings:

- National Council on the Arts, 8546

National Foundation on the Arts and the Humanities

See National Endowment for the Arts

National Institutes of Health**NOTICES**

Meetings:

- Center for Scientific Review, 8541

National Oceanic and Atmospheric Administration**RULES**

Fisheries of the Exclusive Economic Zone off Alaska:

- Pacific Cod by Hook-and-Line Catcher/Processors in the Central Regulatory Area of the Gulf of Alaska, 8474–8475

NOTICES

Endangered and Threatened Species:

- Take of Anadromous Fish, 8507–8508

Intent to Conduct Restoration Planning:

- Discharge of Oil from the Plains All American Pipeline Line 901 into the Pacific Ocean Near Santa Barbara County, CA, May 19, 2015, 8508–8510

Meetings:

- Fisheries of the Gulf of Mexico; Southeast Data, Assessment, and Review, 8505–8506
- Mid-Atlantic Fishery Management Council, 8506
- New England Fishery Management Council, 8510
- Pacific Fishery Management Council, 8506–8507
- U.S. Coral Reef Task Force, 8510–8511

Request for Nominations:

- Hydrographic Services Review Panel, 8504–8505

National Telecommunications and Information Administration**NOTICES**

Meetings:

- Combined Committee and Board, 8502

Navy Department**NOTICES**

Intent to Grant Exclusive Patent License:

- Nanocrine, Inc., 8516

Meetings:

- Draft Supplemental Environmental Impact Statement/ Overseas Environmental Impact Statement for Mariana Islands Training and Testing, 8515–8516

Nuclear Regulatory Commission**NOTICES**

Guidance:

- Revision of Guidelines on Use of Firearms by Security Personnel, 8546–8550

Office of Natural Resources Revenue**RULES**

Inflation Adjustments to Civil Monetary Penalty Rates for Calendar Year 2019, 8416–8418

Presidential Documents**PROCLAMATIONS**

Special Observances:

- National Consumer Protection Week (Proc. 9848), 8581–8584

EXECUTIVE ORDERS

National Roadmap to Empower Veterans and End Suicide, Initiative; Establishment (EO 13861), 8585–8588

Securities and Exchange Commission**NOTICES**

Application:

- BlackRock Credit Strategies Fund, et al., 8550–8553

Self-Regulatory Organizations; Proposed Rule Changes:

- NYSE Arca, Inc., 8553–8557

State Department**PROPOSED RULES**

Review of United States Munitions List Categories IV and XV, 8486–8487

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:

- Disclosure of Violations of the Arms Export Control Act, 8558
- Visitor Access Control System Domestic, 8557–8558

Culturally Significant Object Imported for Exhibition:

- The American Pre-Raphaelites: Radical Realists Exhibition, 8557

State Justice Institute**NOTICES**

Meetings:

Board of Directors, 8559

Surface Transportation Board**NOTICES**

Lease Exemption with Interchange Commitment:

Lake State Railway Co.; Line of CSX Transportation, Inc.,
8559**Transportation Department***See* Federal Aviation Administration*See* Federal Highway Administration*See* Federal Motor Carrier Safety Administration*See* Maritime Administration**NOTICES**

Review of Guidance, 8579

Treasury Department*See* Comptroller of the Currency*See* Internal Revenue Service**NOTICES**Agency Information Collection Activities; Proposals,
Submissions, and Approvals:Relief for Service in Combat Zone and for Presidentially
Declared Disaster, 8579–8580**Veterans Affairs Department****NOTICES**

Meetings:

Geriatrics and Gerontology Advisory Committee, 8580

Separate Parts In This Issue**Part II**Presidential Documents, 8581–8588

Reader Aids

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

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

CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR**Proclamations:**

9848.....8583

Executive Orders:

13861.....8585

7 CFR

986.....8409

9 CFR**Proposed Rules:**

160.....8476

161.....8476

162.....8476

10 CFR

429.....8411

430.....8411

12 CFR**Proposed Rules:**

1026.....8479

14 CFR71 (3 documents) ...8413, 8414,
8415**Proposed Rules:**

39.....8482

15 CFR**Proposed Rules:**

774.....8485

22 CFR**Proposed Rules:**

121.....8486

26 CFR**Proposed Rules:**

1 (2 documents)8488

301.....8488

30 CFR

1241.....8416

33 CFR

117.....8418

165.....8420

Proposed Rules:

165.....8489

40 CFR

51.....8422

52.....8422

Proposed Rules:

52 (2 documents) ...8491, 8492

81.....8492

258.....8496

47 CFR

27.....8443

64.....8457

Proposed Rules:

1.....8497

49 CFR

383.....8463

384.....8463

Proposed Rules:

391.....8497

50 CFR

679.....8474

Rules and Regulations

Federal Register

Vol. 84, No. 46

Friday, March 8, 2019

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

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 986

[Doc. No. AMS–SC–18–0019; SC18–986–1 FR]

Pecans Grown in the States of Alabama, Arkansas, Arizona, California, Florida, Georgia, Kansas, Louisiana, Missouri, Mississippi, North Carolina, New Mexico, Oklahoma, South Carolina, and Texas; Revision of Reporting Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule revises the reporting requirements under the Federal marketing order for pecans. The revised reporting requirements will enable the American Pecan Council (Council) to collect information from handlers on the average handler price paid and the average shelled pecan yield. The Council will use this information to provide important statistical reports to the industry and meet requirements under the marketing order.

DATES: Effective April 8, 2019.

FOR FURTHER INFORMATION CONTACT: Jennie M. Varela, Marketing Specialist, or Christian D. Nissen, Regional Director, Southeast Marketing Field Office, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA; Telephone: (863) 324–3375, Fax: (863) 291–8614, or email: Jennie.Varela@ams.usda.gov or Christian.Nissen@ams.usda.gov.

Small businesses may request information on complying with this regulation by contacting Richard Lower, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or email: Richard.Lower@ams.usda.gov.

SUPPLEMENTARY INFORMATION: This final rule, pursuant to 5 U.S.C. 553, amends regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This final rule is issued under Marketing Agreement and Order No. 986, (7 CFR part 986), regulating the handling of pecans grown in the states of Alabama, Arkansas, Arizona, California, Florida, Georgia, Kansas, Louisiana, Missouri, Mississippi, North Carolina, New Mexico, Oklahoma, South Carolina, and Texas. Part 986 (referred to as the “Order”) is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the “Act.” The Council locally administers the Order and is comprised of growers and handlers of pecans operating within the production area, and one accumulator and one public member.

The Department of Agriculture (USDA) is issuing this final rule in conformance with Executive Orders 13563 and 13175. This action falls within a category of regulatory actions that the Office of Management and Budget (OMB) has exempted from Executive Order 12866 review. Additionally, because this rule does not meet the definition of a significant regulatory action it does not trigger the requirements contained in Executive Order 13771. See OMB’s Memorandum titled “Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017, titled ‘Reducing Regulation and Controlling Regulatory Costs’” (February 2, 2017).

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his

or her principal place of business, has jurisdiction to review USDA’s ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This final rule revises the reporting requirements under the Order. This action requires all pecan handlers to report to the Council the average handler price paid and average shelled pecan yield as part of its existing year-end report. The Council will use this information to provide statistical reports to the industry and meet requirements under the Order. This action was unanimously recommended by the Council at its January 24, 2017, meeting and affirmed at its April 17, 2018, meeting.

Section 986.76 provides the authority to collect reports on the quantity of pecans handled and other pertinent information as specified by the Council. Section 986.78 provides, with the approval of the Secretary, authority for the Council to collect other reports and information from handlers needed to perform its duties. Section 986.175 specifies that handlers shall submit a year-end report to the Council that includes the amount of shelled and inshell pecans in inventory, total inventory calculated on an inshell basis, total weight and type of domestic pecans handled for the fiscal year, and information on assessments owed, paid, or due.

This rule revises § 986.175 to require that additional information be included in the year-end report. These revisions require handlers to report the average price paid by handler and average yield of shelled pecans as part of the existing year-end report.

At its January 24, 2018, and April 17, 2018, meetings, the Council reviewed the reporting requirements under the Order and determined there were additional data that would be beneficial to collect and summarize for the industry on an annual basis. Specifically, the Council recommended adding two additional items to be reported as part of the annual year-end reporting requirement, average price paid by handlers and shelled pecan yield.

While the National Agricultural Statistics Service (NASS) reports average grower prices, this reporting change will provide information regarding a handler’s overall cost of

acquiring pecans. Some handlers buy directly from growers, but many buy from other handlers or import pecans. Understanding the cost of pecans being handled is key information in determining the value of the overall crop and subsequent impacts on the market for pecans the following season. During the meetings, members noted that collecting the average price paid would also be necessary to complete the marketing policy report required under the Order. The marketing policy, as required by § 986.65, must include projected prices for the upcoming fiscal year, which would be influenced by handler costs. Further, the Council believes providing this information would improve the information available to the pecan industry. In particular, the Council feels this information may give growers better information that can be used in making business decisions. The Council recommended adding this reporting requirement as there is currently no comprehensive source for handler cost information.

The Council also discussed asking handlers to provide information regarding the weight of shelled pecans handled. During the formal rulemaking hearing to promulgate the Order, a witness testified regarding a conversion rate of multiplying the shelled weight by two to calculate inshell weight. That conversion rate was incorporated into the Order. Using this conversion, the weight of shelled pecans is approximately 50 percent of the inshell weight. This proportion is referred to as the “shell-out” or shelled pecan yield. However, there are natural variations in pecans and yield can vary depending on the thickness of the shells of different varieties and can also vary from year to year. These fluctuations make it challenging to accurately convert the total inshell volume harvested into shelled pounds, or shelled pounds into their inshell equivalent to provide an accurate estimate of overall supply.

As with the handler price paid, there is currently no central industry source for information on shelled pecan yield. The Council believes collecting this data will allow them to provide the industry with an updated annual average of this yield, which could be an indicator of quality, and over time provide a series of data on shelled pecan yield that would allow them to determine if changes to the current conversion rate are needed.

Following the recommendation of the proposed changes made at the January 24, 2018 meeting, some members had questions about the specific data that would be collected. Based on these

questions, the Council made some adjustments to the proposed form to clarify that handlers would report the average price paid for all inshell pecans purchased during the fiscal year, regardless of how the pecans are handled, including pecans from outside the production area. For the purposes of this form, the terms crop year and fiscal year are synonymous. The Council reviewed the revised reporting form at its April 17, 2018, meeting and affirmed that the new language met their original intent.

The Council believes these revised reporting requirements are necessary to provide accurate reports to the industry regarding average price paid, yield for shelled pecans, and to meet requirements under the Order. The industry will use this information to complement the information provided by NASS in the development of its marketing policy and to collect accurate data to determine if the definition of weight in § 986.43 needs to be amended.

Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately 2,500 growers of pecans in the production area and approximately 250 handlers subject to regulation under the Order. Small agricultural growers are defined by the Small Business Administration as those having annual receipts less than \$750,000, and small agricultural service firms are defined as those whose annual receipts are less than \$7,500,000 (13 CFR 121.201).

According to information from NASS, the average grower price for pecans during the 2016–2017 season was \$2.59 per pound and 269 million pounds were utilized. The value for pecans that year totaled \$697 million (\$2.59 per pound multiplied by 269 million pounds). Taking the total value of production for pecans and dividing it by the total number of pecan growers provides an average return per grower of \$278,684.

Using the average price and utilization information, and assuming a normal distribution among growers, the majority of growers receive less than \$750,000 annually.

Evidence presented at the formal rulemaking hearing indicates an average handler margin of \$0.58 per pound. Adding this margin to the average grower price of \$2.59 per pound of inshell pecans results in an estimated handler price of \$3.17 per pound. With a total 2017 production of 269 million pounds, the total value of production in 2017 was \$853 million (\$3.17 per pound multiplied by 269 million pounds). Taking the total value of production for pecans and dividing it by the total number of pecan handlers provides an average return per handler of \$3.4 million. Using this estimated price, the utilization volume, number of handlers, and assuming a normal distribution among handlers, the majority of handlers have annual receipts of less than \$7,500,000. Thus, the majority of growers and handlers regulated under the Order may be classified as small entities.

This final rule revises the reporting requirements in § 986.175. This action requires all pecan handlers to report to the Council the average handler price paid and average shelled pecan yield as part of its existing year-end report. This information will be used by the Council to provide statistical reports to the industry and meet requirements under the Order. The authority for this action is provided in §§ 986.76 and 986.78.

It is not anticipated that this action will impose additional costs on handlers or growers, regardless of size. Council members, including those representing small businesses, indicated the average handler price paid and the average shelled pecan yield information is already recorded and maintained by handlers as a part of their daily business and the information should be readily accessible. Consequently, any additional costs associated with this change would be minimal and apply equally to all handlers.

This action should also help the industry by providing additional data on pecans handled. This information will help with marketing and planning for the industry, as well as provide important information in preparing the annual marketing policy required by the Order. This change will also assist with the development of a dataset to determine if the conversion rate for shelled to inshell pecans needs to be revised. The benefits of this rule are expected to be equally available to all pecan growers and handlers, regardless of their size.

The Council discussed other alternatives to this action, including making no changes to the current reporting requirements. However, having the information on handler price paid and shelled pecan yield will provide important information for the industry.

Another alternative considered was to create a new report for the collection of this information. However, the industry recently implemented a series of monthly reports that increased the reporting burden on handlers. Rather than add to the burden by creating a new report, the Council believed it would be more efficient to ask handlers for this information as part of the existing year-end reporting requirement. Therefore, the alternatives were rejected.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Order's information collection requirements have been previously approved by OMB and assigned OMB No. 0581-0291 "Federal Marketing Order for Pecans." This final rule will require changes to the Council's existing APC Form 7. However, the changes are minor and the currently approved burden for the form will not be altered by the changes to the form. The revised form has been submitted to OMB for approval.

As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. As noted in the initial regulatory flexibility analysis, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule. Further, no public comments were received regarding the initial regulatory flexibility analysis.

AMS is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

The Council's meetings were widely publicized throughout the pecan industry and all interested persons were invited to attend the meetings and participate in Council deliberations on all issues. The Council's meetings held on January 24, 2018, and April 17, 2018, were also public meetings and all entities, both large and small, were able to express views on this issue.

A proposed rule concerning this action was published in the **Federal Register** on October 9, 2018, (83 FR 50531). Copies of the rule were sent via email to Council members and known

pecan handlers. The rule was also made available through the internet by USDA and the Office of the **Federal Register**. A 30-day comment period ending November 8, 2018, was provided to allow interested persons to respond to the proposal. No comments were received. Accordingly, no changes will be made to the rule as proposed.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: <http://www.ams.usda.gov/rules-regulations/moa/small-businesses>. Any questions about the compliance guide should be sent to Richard Lower at the previously-mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant matter presented, including the information and recommendation submitted by the Council and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 986

Marketing agreements, Nuts, Pecans, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 986 is amended as follows:

PART 986—PECANS GROWN IN THE STATES OF ALABAMA, ARKANSAS, ARIZONA, CALIFORNIA, FLORIDA, GEORGIA, KANSAS, LOUISIANA, MISSOURI, MISSISSIPPI, NORTH CAROLINA, NEW MEXICO, OKLAHOMA, SOUTH CAROLINA, AND TEXAS

■ 1. The authority citation for 7 CFR part 986 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 986.175 is amended by revising paragraphs (a) introductory text, (a)(7) and (8), and adding paragraphs (a)(9) and (10) to read as follows:

§ 986.175 Handler inventory.

(a) Handlers shall submit to the Council a year-end inventory report following August 31 each fiscal year. Handlers shall file such reports by September 10. Should September 10 fall on a weekend, reports are due by the first business day following September 10. Such reports shall be reported to the Council on APC Form 7. For the purposes of this form, "crop year" is the same as the "fiscal year." The report shall include:

* * * * *

(7) Total weight and type of domestic pecans handled for the fiscal year;

(8) Total assessments owed, assessments paid to date, and remaining assessments due to be paid by the due date of the year-end inventory report for the fiscal year;

(9) The average price paid for all inshell pecans purchased during the fiscal year regardless of how the pecans are handled, including pecans from outside the production area; and

(10) The average yield of shelled pecans per pound of inshell pecans shelled during the fiscal year.

Dated: March 5, 2019.

Bruce Summers,
Administrator, Agricultural Marketing Service.

[FR Doc. 2019-04232 Filed 3-7-19; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF ENERGY

10 CFR Parts 429 and 430

[EERE-2012-BT-STD-0045]

RIN 1904-AC87

Energy Conservation Program: Energy Conservation Standards for Ceiling Fan Light Kits; Correction

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Final rule; correcting amendments.

SUMMARY: The U.S. Department of Energy (DOE) is publishing this final rule to correct references to the compliance date for energy conservation standards for ceiling fan light kits (CFLKs) and correct inaccurate cross-references to these standards. On May 16, 2018, DOE published a final rule that amended the energy conservation standards for CFLKs, which contained some inadvertent errors. This document corrects those errors.

DATES: *Effective* March 8, 2019.

FOR FURTHER INFORMATION CONTACT:

Ms. Lucy deButts, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE-2J, 1000 Independence Avenue SW, Washington, DC 20585-0121. Telephone: (202) 287-1604. Email:

ApplianceStandardsQuestions@ee.doe.gov.

Elizabeth Kohl, U.S. Department of Energy, Office of the General Counsel, GC-33, 1000 Independence Avenue SW, Washington, DC 20585-0121. Telephone: (202) 586-7796. Email: Elizabeth.Kohl@hq.doe.gov.

SUPPLEMENTARY INFORMATION: Title III, Part B¹ of the Energy Policy and Conservation Act of 1975, as amended (EPCA),² established the Energy Conservation Program for Consumer Products Other Than Automobiles. (42 U.S.C. 6291–6309) These products include CFLKs, the subject of this document. Section 325(ff)(5) of EPCA authorizes DOE to consider amended standards for CFLKs. (42 U.S.C. 6295(ff)(5)) On January 6, 2016 DOE published a final rule amending energy conservation standard for CFLKs with a compliance date of 3 years after the date of issuance, *i.e.*, January 7, 2019. 81 FR 580. Section 325(ff)(5) required that the compliance date of the standards be at least 2 years after the date of issuance, and the 3 year lead time DOE specified in the final standards rule is consistent with other provisions of EPCA that require a 3-year lead time for some products. (42 U.S.C. 6295(ff)(5)(B)) Section 325(ff)(6) of EPCA also authorizes DOE to consider amended standards for ceiling fans, as a separate product under the statute. (42 U.S.C. 6295(ff)(6)) On January 19, 2017 DOE published a final rule amending energy conservation standards for ceiling fans with a compliance date of January 21, 2020. 82 FR 6826. Section 325(ff)(6) did not have a similar provision regarding the compliance date for ceiling fan standards; however, as with the CFLK rule, the 3 year lead time DOE specified in the final standards rule is consistent with other provisions of EPCA that require a 3-year lead time for some products.

After DOE's promulgation of final rules establishing energy conservation standards for CFLKs and ceiling fans, Congress enacted S. 2030, the "Ceiling Fan Energy Conservation Harmonization Act" ("the Act"), which was signed into law as Public Law 115–161 on April 3, 2018. The Act amended the compliance date for the CFLK standards to establish a single compliance date for the energy conservation standards for both CFLKs and ceiling fans. The Act also required that DOE, not later than 60 days after the date of enactment, make any technical and conforming changes to any regulation, guidance document, or procedure necessary to implement the changed compliance date. On May 16, 2018 DOE published a final rule that amended the compliance date for CFLKs at 10 CFR 430.32(s)(3), (4), (5), and (6) by replacing "January 7, 2019" with

"January 21, 2020" (hereafter 2018 CFLK Correction final rule). 83 FR 22587. DOE also updated a cross reference in 10 CFR 430.32(s)(5), changing the reference to paragraphs "(s)(2) or (3)" to paragraphs "(s)(3) or (4)." Paragraph (s)(5) provides requirements for ceiling fan light kits other than those specified in the cross-referenced paragraphs, which were not updated when the new ceiling fan standards were codified as paragraph (s)(2). However, in that rule certain sections of the CFR that should also have been corrected to reflect the accurate compliance date and cross-references to energy conservation standards were not.

In this final rule, DOE is amending 10 CFR 430.23 and 10 CFR 429.33 to reference uniformly the correct compliance date for CFLK energy conservation standards. Specifically, DOE is amending the CFLK test procedure provisions at 10 CFR 430.23(x)(2) and certification provisions at 10 CFR 429.33(a)(3) by replacing in these paragraphs the text "January 7, 2019" with "January 21, 2020."

In addition, DOE is amending incorrect cross-references to CFLK energy conservation standards. Specifically, the certification provisions at 10 CFR 429.33(a)(2)(v) currently cite 10 CFR 430.32(s)(4) in reference to energy conservation standards for CFLKs with sockets or packaged with lamps other than medium screw bases or pin-bases. However, 10 CFR 430.32(s)(4) specifies energy conservation requirements for CFLKs with pin-based sockets for fluorescent lamps. Energy conservation requirements for CFLKs with socket types other than medium screw base or pin-based are specified in 10 CFR 430.32(s)(5). Therefore, DOE is amending 10 CFR 429.33(a)(2)(v) by replacing "10 CFR 430.32(s)(4)" with "10 CFR 430.32(s)(5)." Further 10 CFR 430.32(s)(3)(i) and (ii) respectively, reference paragraphs (s)(2)(ii) and (s)(2)(i) in that section with regards to requirements for compact fluorescent lamps. However, 10 CFR 430.32(s)(2)(i) and (ii) only specify requirements related to ceiling fans. The requirements for compact fluorescent lamps are specified in 10 CFR 430.32(s)(3)(i) and (ii). Therefore, DOE is amending 10 CFR 430.32(s)(3) by replacing "(s)(2)(ii)" with "(s)(3)(ii)" and replacing "(s)(2)(i)" with "(s)(3)(i)."

Procedural Issues and Regulatory Review

The regulatory reviews conducted for this rulemaking are those set forth in the 2018 CFLK Correction final rule. In light

of the applicable statutory requirement enacted by Congress to deem the compliance date for CFLK standards to be January 21, 2020, the absence of any benefit in providing comment given that the rule incorporates the specific requirement established by Public Law 115–161, DOE finds that there is good cause under 5 U.S.C. 553(b)(B) to not provide prior notice and an opportunity for public comment on the actions outlined in this document to implement Public Law 115–161. DOE similarly finds good cause under 5 U.S.C. 553(b)(B) to not provide prior notice and an opportunity for public comment on the update to the erroneous cross-reference. For these reasons, providing prior notice and an opportunity for public comment would, in this instance, be unnecessary and contrary to the public interest. For the same reason, DOE finds good cause pursuant to 5 U.S.C. 553(d)(3) to waive the 30-day delay in effective date for this rule. Neither the errors nor the corrections in this document affect the substance of the rulemaking that amended standards of CFLKs (81 FR 580; January 6, 2016) or any of the conclusions reached in support of the final rule.

List of Subjects

10 CFR Part 429

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Reporting and recordkeeping requirements.

10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Intergovernmental relations, Reporting and recordkeeping requirements, and Small businesses.

Issued in Washington, DC, on February 28, 2019.

Steven Chalk,

Acting Deputy Assistant Secretary For Energy Efficiency, Energy Efficiency and Renewable Energy.

For the reasons stated in the preamble, parts 429 and 430 of title 10 of the Code of Federal Regulations are corrected by making the following correcting amendments:

PART 429—CERTIFICATION, COMPLIANCE, AND ENFORCEMENT FOR CONSUMER PRODUCTS AND COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 1. The authority citation for part 429 continues to read as follows:

¹ For editorial reasons, upon codification in the U.S. Code, Part B was redesignated Part A.

² All references to EPCA in this document refer to the statute as amended through America's Water Infrastructure Act of 2018, Public Law 115–270 (October 23, 2018).

Authority: 42 U.S.C. 6291–6317.

§ 429.33 [Amended]

- 2. Section 429.33 is amended:
 - a. In paragraph (a)(2)(v) by removing the language “§ 430.32(s)(4)” and adding in its place “§ 430.32(s)(5)”; and
 - b. In paragraph (a)(3) by removing the language “January 7, 2019” and adding in its place “January 21, 2020”.

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

- 3. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

§ 430.23 [Amended]

- 4. Section 430.23 is amended in paragraph (x)(2) introductory text by removing the language a “January 7, 2019” and adding in its place “January 21, 2020”.

§ 430.32 [Amended]

- 5. Section 430.32 is amended:
 - a. In paragraph (s)(3)(i) introductory text by removing the language “(s)(2)(ii)” and adding in its place “(s)(3)(ii)”; and
 - b. In paragraph (s)(3)(ii) by removing the language “(s)(2)(i)” and adding in its place “(s)(3)(i)”.

[FR Doc. 2019–04244 Filed 3–7–19; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2018–0917; Airspace Docket No. 18–ASW–14]

RIN 2120–AA66

Revocation of Class E Airspace; Beeville-Chase Field, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action removes Class E airspace extending upward from 700 feet above the surface at Chase Field Industrial Airport, Beeville-Chase Field, TX. This action is due to the cancellation of the instrument procedures at the airport making this airspace no longer necessary.

DATES: Effective 0901 UTC, April 25, 2019. The Director of the Federal Register approves this incorporation by reference action under Title 1 Code of

Federal Regulations part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

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

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

FOR FURTHER INFORMATION CONTACT:

Rebecca Shelby, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5857.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA’s authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency’s authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it supports the removal of Class E airspace extending upward from 700 feet above the surface at Chase Field Industrial Airport, Beeville-Chase Field, TX.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (83 FR 55306; November 5, 2018) for Docket No. FAA–2018–0917 to remove Class E airspace extending upward from 700 feet above the surface at Chase Field Industrial Airport, Beeville-Chase Field, TX. Interested parties were invited to participate in this rulemaking effort by submitting

written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraphs 6005 of FAA Order 7400.11C, dated August 13, 2018, and effective September 15, 2018, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11C, Airspace Designations and Reporting Points, dated August 13, 2018, and effective September 15, 2018. FAA Order 7400.11C is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11C lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 removes the Class E airspace extending upward from 700 feet above the surface at Chase Field Industrial Airport, Beeville-Chase Field, TX.

This action due to the cancellation of the instrument procedures at the airport making the airspace no longer necessary.

Regulatory Notices and Analyses

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

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, “Environmental Impacts: Policies and Procedures,”

paragraph 5–6.5.a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11C, Airspace Designations and Reporting Points dated August 13, 2018, and effective September 15, 2018, is amended as follows:

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

* * * * *

ASW TX E5 Beeville-Chase Field, TX
[Removed]

Issued in Fort Worth, Texas, on March 1, 2019.

John A. Witucki,

Acting Manager, Operations Support Group,
ATO Central Service Center.

[FR Doc. 2019–04154 Filed 3–7–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2018–0250; Airspace
Docket No. 17–AGL–3]

RIN 2120–AA66

Establishment of Class E Airspace; Williston, ND

AGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace extending upward from 700 feet above the surface, at Williston Basin

International Airport, Williston, ND. Controlled airspace is necessary to accommodate new standard instrument approach procedures developed at Williston Basin International Airport, for the safety and management of instrument flight rules (IFR) operations at the airport.

DATES: Effective 0901 UTC, October 10, 2019. The Director of the Federal Register approves this incorporation by reference action under Title 1, Code of Federal Regulations part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

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

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

FOR FURTHER INFORMATION CONTACT:

Rebecca Shelby, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5857.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA’s authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency’s authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes Class E airspace extending upward from 700 feet above the surface at Williston Basin International, Williston, ND, to support IFR operations at the airport.

History

On November 5, 2018, the FAA published a notice of proposed rulemaking in the **Federal Register** (83 FR 55310 for Docket No. FAA–2018–0250, a notice of proposed rulemaking (NPRM) to establish Class E airspace extending upward from 700 feet above the surface at Williston Basin International Airport, Williston, ND. Controlled airspace is necessary to accommodate new standard instrument approach procedures developed at Williston Basin International Airport, for the safety and management of instrument flight rules (IFR) operations. No comments were received.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.11C, dated August 13, 2018, and effective September 15, 2018, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11C, Airspace Designations and Reporting Points, dated August 13, 2018, and effective September 15, 2018. FAA Order 7400.11C is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11C lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

The FAA amends Title 14, Code of Federal Regulations (14 CFR) part 71 by:

Establishing Class E airspace area extending upward from 700 feet above the surface to within a 6.7-mile radius of Williston Basin International Airport, Williston, ND, to accommodate new standard instrument approach procedures. This action would enhance safety and the management of IFR operations at the airport.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated

impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

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

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11C, Airspace Designations and Reporting Points, dated August 13, 2018, and effective September 15, 2018, is amended as follows:

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

* * * * *

AGL ND E5 Williston, ND [New]

Williston Basin International Airport, ND
(Lat. 48°15'35" N, long. 103°45'02" W)

That airspace extending upward from 700 feet above the surface within a 6.7-mile radius of the Williston Basin International Airport.

Issued in Fort Worth, Texas, on March 1, 2019.

John Witucki,

Acting Manager, Operations Support Group,
ATO Central Service Center.

[FR Doc. 2019–04153 Filed 3–7–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2018–0974; Airspace
Docket No. 18–ACE–4]

RIN 2120–AA66

Establishment of Class E Airspace; Auburn, NE

AGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace extending upward from 700 feet above the surface at Farington Field Airport, Auburn, NE. Controlled airspace is necessary to accommodate new standard instrument approach procedures developed at Farington Field Airport, for the safety and management of instrument flight rules (IFR) operations at this airport.

DATES: Effective 0901 UTC, April 25, 2019. The Director of the Federal Register approves this incorporation by reference action under Title 1 Code of Federal Regulations part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

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

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

FOR FURTHER INFORMATION CONTACT: Rebecca Shelby, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5857.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code.

Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes Class E airspace extending upward from 700 feet above the surface at Farington Field Airport, Auburn, NE, to support IFR operations at the airport.

History

On December 17, 2018, the FAA published a notice of proposed rulemaking in the **Federal Register** (83 FR 64490) for Docket No. FAA–2018–0974, to establish Class E airspace extending upward from 700 feet above the surface at Farington Field Airport, Auburn, NE. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. One comment was received. The comment was not germane to the proposed rule change.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11C, Airspace Designations and Reporting Points, dated August 13, 2018, and effective September 15, 2018. FAA Order 7400.11C is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11C lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 establishes Class E airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Farington Field Airport, Auburn, NE, to accommodate new standard instrument approach procedures developed for the airport, for the safety and management of instrument flight rules (IFR) operations.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and

unlikely to result in adverse or negative comments. It, therefore: (1) Is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

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

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11C, Airspace Designations and Reporting Points, dated August 13, 2018, and effective September 15, 2018, is amended as follows:

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

* * * * *

ACE NE E5 Auburn, NE [New]

Farington Field Airport, NE
(Lat. 40°23’12” N, long 095°47’17” W)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the Farington Field Airport.

Issued in Fort Worth, Texas, on March 1, 2019.

John Witucki,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2019–04155 Filed 3–7–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE INTERIOR

Office of Natural Resources Revenue

30 CFR Part 1241

[Docket No. ONRR–2017–0003; DS63644200 DRT000000.CH7000 190D1113RT]

RIN 1012–AA24

Inflation Adjustments to Civil Monetary Penalty Rates for Calendar Year 2019

AGENCY: Office of the Secretary, Office of Natural Resources Revenue, Interior.

ACTION: Final rule.

SUMMARY: The Office of Natural Resources Revenue (ONRR) publishes this final rule to increase our maximum civil monetary penalty (CMP) rates for inflation occurring between October 2017 and October 2018.

DATES: This rule is effective on March 8, 2019.

FOR FURTHER INFORMATION CONTACT: For questions on procedural issues, contact Luis Aguilar, Regulatory Specialist, by telephone at (303) 231–3418 or email to Luis.Aguilar@onrr.gov. For questions on technical issues, contact Geary Keeton, Chief of Enforcement, by telephone at (303) 231–3096 or email to Geary.Keeton@onrr.gov. You may obtain a paper copy of this rule by contacting Mr. Aguilar by phone or email.

SUPPLEMENTARY INFORMATION:

- I. Background
- II. Inflation-Adjusted Maximum Rates
- III. Procedural Requirements
 - A. Regulatory Planning and Review (E.O. 12866)

- B. Regulatory Flexibility Act
- C. Small Business Regulatory Enforcement Fairness Act
- D. Unfunded Mandates Reform Act
- E. Takings (E.O. 12630)
- F. Federalism (E.O. 13132)
- G. Civil Justice Reform (E.O. 12988)
- H. Consultation With Indian Tribes (E.O. 13175)
- I. Paperwork Reduction Act
- J. National Environmental Policy Act
- K. Effects on the Energy Supply (E.O. 13211)
- L. Clarity of This Regulation
- M. Administrative Procedure Act

I. Background

The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (collectively, “the Act”), codified at 28 U.S.C. 2461 note (LEXIS through Pub. L. 115–90, approved 12/8/17), requires Federal agencies to adjust their civil monetary penalty (CMP) rates for inflation every year.

In accordance with sections 4 and 5 of the Act, the annual CMP inflation adjustment for 2019 is based on the percent change in the Consumer Price Index for all Urban Consumers (CPI–U) between October 2017 and October 2018. The CPI–U for October 2017 was 246.663, and for October 2018 was 252.885, for an increase of 2.522%. In accordance with section 5(a) of the Act, the new maximum CMP rates must be rounded to the nearest whole dollar. In accordance with section 6 of the Act, the new maximum penalty rates will apply only to CMPs, including those which are associated with violations predating the increase, that are assessed after the date the increase takes effect.

ONRR assesses CMPs under the Federal Oil and Gas Royalty Management Act, 30 U.S.C. 1719, and our regulations at 30 CFR part 1241. We calculate and assess CMPs per violation, at the applicable rate, for each day such violation continues.

II. Inflation-Adjusted Maximum Rates

This final rule increases the maximum CMP rates for each of the four categories of violations identified in 30 U.S.C. 1719(a)–(d) and 30 CFR part 1241. The following list identifies the existing ONRR regulations containing CMP rates and shows those rates before and after this increase.

30 CFR citation	Current penalty rate	2019 inflation adjustment multiplier	2019 adjusted penalty rate
1241.52(a)(2)	1,220	1.02522	1,251
1241.52(b)	12,211	1.02522	12,519
1241.60(b)(1)	24,421	1.02522	25,037

30 CFR citation	Current penalty rate	2019 inflation adjustment multiplier	2019 adjusted penalty rate
1241.60(b)(2)	61,055	1.02522	62,595

IV. Procedural Requirements

A. Regulatory Planning and Review (Executive Orders 12866 and 13563)

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

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

B. Regulatory Flexibility Act

This rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (RFA, 5 U.S.C. 601 *et seq.*) because the rule only makes adjustments for inflation. The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 requires agencies to adjust civil penalties with an annual inflation adjustment. Therefore, the RFA does not apply to this rulemaking.

C. Small Business Regulatory Enforcement Fairness Act

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

- a. Does not have an annual effect on the economy of \$100 million or more.
- b. Will not cause a major increase in costs or prices for consumers; individual industries; Federal, State, local government agencies; or geographic regions.
- c. Does not have significant adverse effects on competition, employment,

investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises.

D. Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than \$100 million per year. This rule does not have a significant or unique effect on State, local, or Tribal governments or the private sector. Therefore, we are not required to provide a statement containing the information that the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) requires because this rule is not an unfunded mandate.

E. Takings (E.O. 12630)

This rule does not result in a taking of private property or otherwise have taking implications under E.O. 12630. Therefore, this rule does not require a takings implication assessment.

F. Federalism (E.O. 13132)

Under the criteria in section 1 of E.O. 13132, this rule does not have sufficient Federalism implications to warrant the preparation of a Federalism summary impact statement. Therefore, this rule does not require a Federalism summary impact statement.

G. Civil Justice Reform (E.O. 12988)

This rule complies with the requirements of E.O. 12988. Specifically, this rule:

- a. Meets the criteria of section 3(a), which requires that we review all regulations to eliminate errors and ambiguity and to write them to minimize litigation.
- b. Meets the criteria of section 3(b)(2), which requires that we write all regulations in clear language using clear legal standards.

H. Consultation With Indian Tribal Governments (E.O. 13175)

The Department strives to strengthen its government-to-dash;government relationship with the Indian Tribes through a commitment to consultation with the Indian Tribes and recognition of their right to self-governance and Tribal sovereignty. Under the Department’s consultation policy and the criteria in E.O. 13175, we evaluated this rule and determined that it will

have no substantial direct effects on Federally-recognized Indian Tribes and does not require consultation.

I. Paperwork Reduction Act

This rule:

- (a) Does not contain any new information collection requirements.
- (b) Does not require a submission to OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). See 5 CFR 1320.4(a)(2).

J. National Environmental Policy Act of 1969 (NEPA)

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. We are not required to provide a detailed statement under NEPA because this rule qualifies for categorical exclusion under 43 CFR 46.210(i) in that this rule is “. . . of an administrative, financial, legal, technical, or procedural nature. * * *” We also have determined that this rule is not involved in any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

K. Effects on the Energy Supply (E.O. 13211)

This rule is not a significant energy action under the definition in E.O. 13211 and, therefore, does not require a Statement of Energy Effects.

L. Clarity of This Regulation

We are required by E.O. 12866 (section 1(b)(12)), E.O. 12988 (section 3(b)(1)(B)), and E.O. 13563 (section 1(a)), and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

- (a) Be logically organized.
- (b) Use the active voice to address readers directly.
- (c) Use common, everyday words and clear language rather than jargon.
- (d) Be divided into short sections and sentences.
- (e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send your comments to Luis.Aguilar@onrr.gov. Your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that you find unclear, which sections or

sentences are too long, the sections where you feel lists or tables would be useful, etc.

M. Administrative Procedure Act (APA)

The Act requires agencies to publish annual inflation adjustments by no later than January 15 of each year, notwithstanding section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553). OMB has interpreted this direction to mean that the usual APA public procedure for rulemaking—which includes public notice of a proposed rule, an opportunity for public comment, and a delay in the effective date of a final rule—is not required when agencies issue regulations to implement the annual adjustments to civil penalties that the Act requires. Accordingly, we are issuing the 2019 annual adjustments as a final rule without prior notice or an opportunity for comment and with an effective date immediately upon publication in the **Federal Register**.

Section 553(b) of the Administrative Procedure Act (APA) provides that, when an agency for good cause finds that “notice and public procedure . . . are impracticable, unnecessary, or contrary to the public interest,” the agency may issue a rule without providing notice and an opportunity for prior public comment. Under section 553(b), ONRR finds that there is good cause to promulgate this rule without first providing for public comment. ONRR is promulgating this final rule to implement the statutory directive in the Act, which requires agencies to publish a final rule and to update the civil penalty amounts by applying a specified formula. We have no discretion to vary the amount of the adjustment to reflect any views or suggestions provided by commenters. Accordingly, it would serve no purpose to provide an opportunity for public comment on this rule prior to promulgation. Thus, providing for notice and public comment is unnecessary.

Furthermore, ONRR finds under section 553(d)(3) of the APA that good cause exists to make this direct final rule effective immediately upon publication in the **Federal Register**. In the Act, Congress expressly required Federal agencies to publish annual inflation adjustments to civil penalties in the **Federal Register** no later than January 15 of every year, notwithstanding section 553 of the APA. Under the statutory framework and OMB guidance, the new penalty levels are to take effect immediately upon publication. Moreover, an effective date after January 15 would delay

application of the new penalty levels, contrary to Congress’s intent.

List of Subjects in 30 CFR Part 1241

Administrative practice and procedure, Civil penalties, Coal, Geothermal, Inflation, Mineral resources, Natural gas, Notices of non-compliance, Oil.

Gregory J. Gould,

Director for Office of Natural Resources Revenue.

Authority and Issuance

For the reasons discussed in the preamble, ONRR amends 30 CFR part 1241 as set forth below:

PART 1241—PENALTIES

■ 1. The authority citation for part 1241 continues to read as follows:

Authority: 25 U.S.C. 396 *et seq.*, 396a *et seq.*, 2101 *et seq.*; 30 U.S.C. 181 *et seq.*, 351 *et seq.*, 1001 *et seq.*, 1701 *et seq.*; 43 U.S.C. 1301 *et seq.*, 1331 *et seq.*, 1801 *et seq.*

§ 1241.52 [Amended]

■ 2. Amend § 1241.52 in paragraph (a)(2), by removing “\$1,220” and adding in its place “\$1,251” and in paragraph (b) introductory text, by removing “\$12,211” and adding in its place “\$12,519”.

§ 1241.60 [Amended]

■ 3. Amend § 1241.60 in paragraph (b)(1) introductory text, by removing “\$24,421” and adding in its place “\$25,037” and in paragraph (b)(2), by removing “\$61,055” and adding in its place “\$62,595”

[FR Doc. 2019-04239 Filed 3-7-19; 8:45 am]

BILLING CODE 4335-30-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2018-1032]

RIN 1625-AA09

Drawbridge Operation Regulation; Mill Basin, Brooklyn, NY

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is removing the existing drawbridge operation regulation for the New York City Highway Bridge across Mill Basin, mile 0.8, at Brooklyn, New York. The drawbridge was replaced with a fixed bridge in December 2017 and the

operating regulation is no longer applicable or necessary.

DATES: This rule is effective March 8, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2018-1032. In the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this rulemaking.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Ms. Stephanie Lopez, Bridge Management Specialist, First Coast Guard District Bridge Program, telephone 212-514-4335, email Stephanie.E.Lopez@USCG.MIL.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
Pub. L. Public Law
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the New York City Highway Bridge, that once required draw operations in 33 CFR 117.795(b), was replaced with a fixed bridge in December 2017. It is unnecessary to publish a NPRM because this regulatory action does not purport to place any restrictions on mariners but rather removes a restriction that has no further use or value.

We are issuing this rule under 5 U.S.C. 553(d)(3). The Coast Guard finds that good cause exists for making this rule effective in less than 30 days after publication in the **Federal Register**. The bridge has been a fixed bridge for 12 months and this rule merely requires an administrative change to the **Federal Register**, in order to omit a regulatory requirement that is no longer applicable or necessary. The modification has already taken place and the removal of

the regulation will not affect mariners currently operating on this waterway. Therefore, a delayed effective date is unnecessary.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority 33 U.S.C. 499.

The New York City Highway Bridge across Mill Basin, mile 0.8 was removed and replaced with a fixed bridge in December 2017. It has come to the attention of the Coast Guard that the governing regulation for this drawbridge was never removed subsequent to the completion of the fixed bridge that replaced it. The elimination of this drawbridge necessitates the removal of the drawbridge operation regulation, 33 CFR 117.795(b), that pertains to the former drawbridge.

The purpose of this rule is to remove the section 33 CFR 117.795(b), that refers to the New York City Highway Bridge at mile 0.8, from the Code of Federal Regulations since it governs a bridge that is no longer able to be opened.

IV. Discussion of Final Rule

The Coast Guard is changing the regulation in 33 CFR 117.795(b) by removing restrictions and the regulatory burden related to the draw operations for this bridge that is no longer a drawbridge. The change removes the section 33 CFR 117.795(b) of the regulation governing the New York City Highway Bridge since the bridge has been replaced with a fixed bridge. This Final Rule seeks to update the Code of Federal Regulations by removing language that governs the operation of the New York City Highway Bridge, which in fact is no longer a drawbridge. This change does not affect nor does it alter the operating schedules in 33 CFR 117.795 that govern the remaining active drawbridges on Jamaica Bay and connecting waterways.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a

budgeting process. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget (OMB) and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the fact that the bridge was replaced by a fixed bridge and no longer operates as a drawbridge. The removal of the operating schedule from 33 CFR part 117 subpart B will have no effect on the movement of waterway or land traffic.

B. Impact on Small Entities

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

For the reasons stated in section IV.A above this final rule would not have a significant economic impact on any vessel owner or operator.

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

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

C. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Government

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

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have made a determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule simply promulgates the operating regulations or procedures for drawbridges. This action is categorically excluded from further review, under figure 2–1, paragraph (32)(e), of the Instruction.

A preliminary Record of Environmental Consideration and a Memorandum for the Record are not required for this rule.

G. Protest Activities

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

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

§ 117.795 [Amended]

■ 2. In § 117.795, remove paragraph (b) and re-designate paragraph (c) as paragraph (b).

Dated: February 14, 2019.

A.J. Tiongson,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 2019-04260 Filed 3-7-19; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2018–1065]

RIN 1625-AA00

Safety Zone; Oregon Inlet, Dare County, NC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the navigable waters of Oregon Inlet in Dare County, North Carolina in support of demolition of the old Herbert C. Bonner Bridge. This temporary safety zone is intended to protect mariners, vessels, and demolition crews from the hazards associated with demolishing the old bridge, and will restrict vessel traffic

on portions of Oregon Inlet near active demolition work and demolition equipment. Entry of vessels or persons into this safety zone is prohibited unless specifically authorized by the Captain of the Port (COTP) North Carolina or designated representative.

DATES: This rule is effective without actual notice from March 8, 2019, through March 30, 2020. For the purposes of enforcement, actual notice will be used from March 4, 2019, through March 8, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG–2018–1065 in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, contact Petty Officer Matthew Tyson, Waterways Management Division, U.S. Coast Guard Sector North Carolina, Wilmington, NC; telephone: (910) 772–2221, email: Matthew.I.Tyson@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

On November 26, 2018, the North Carolina Department of Transportation (NCDOT) provided the Coast Guard with details concerning the demolition of the old Herbert C. Bonner Bridge. Demolition will not follow a set schedule due to sea conditions, equipment needs, and vessel navigation considerations. In addition, demolition will take place in two locations at once due to equipment types and demolition methods. NCDOT has determined that a moving safety zone is needed in Oregon Inlet within 100 yards of active demolition work and demolition equipment. In response, on December 18, 2018, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Safety Zone; Oregon Inlet, Dare County, NC (83 FR 64771). There, we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to the demolition of the old Herbert C. Bonner Bridge. During the comment period that ended January 17, 2019, we received no

comments. However, during the comment period, NCDOT requested a new effective period from the beginning of March through March 30, 2020, instead of between February 1, 2019, and February 29, 2020, as proposed in the NPRM.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable and contrary to the public interest because immediate action is needed protect persons, vessels, and the marine environment on the navigable waters of Oregon Inlet during the demolition of the old Herbert C. Bonner Bridge in Dare County, NC.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The COTP North Carolina has determined that potential safety hazards associated with the demolition of the old Herbert C. Bonner Bridge would be a concern for anyone transiting Oregon Inlet. The purpose of this rule is to protect persons, vessels, and the marine environment in Oregon Inlet during the demolition of the old Herbert C. Bonner Bridge.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM published December 18, 2018. There is a minor change in the regulatory text of this rule from the proposed rule, shifting the demolition period start and end dates back by one month. The demolition will occur from the beginning of March through March 30, 2020, instead of between February 1, 2019, and February 29, 2020.

This rule establishes a moving safety zone to be enforced during active demolition work from March 4, 2019, through March 30, 2020. Demolition will not follow a set schedule due to changing sea conditions, equipment needs, and vessel navigation considerations. In addition, demolition will take place in two locations at once due to equipment types and demolition methods, the exact times of activation will be announced via Broadcast Notices to Mariners at least 48 hours prior to enforcement. The moving safety zone will include all navigable waters within 100 yards of active demolition work and demolition equipment in Oregon Inlet along the old Herbert C. Bonner Bridge, which follows a line beginning at approximate position 35°46'47" N, 75°32'41" W, then

southeast to 35°46'37" N, 75°32'33" W then southeast to 35°46'09" N, 75°31'59" W, then southeast to 35°46'03" N, 75°31'51" W, then southeast to 35°46'01" N, 75°31'40" W. (NAD 1983). This zone is intended to protect persons, vessels, and the marine environment on the navigable waters in Oregon Inlet during the demolition of the old Herbert C. Bonner Bridge. No vessel or person will be permitted to enter the safety zone during the designated times. There will be alternative navigation options for vessel traffic when a moving safety zone that covers all or part of the navigation channel is being enforced.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, and duration of the safety zone. Vessel traffic will not be allowed to enter or transit portions of Oregon Inlet during active demolition work, to be conducted from March 4, 2019, through March 30, 2020. The specific enforcement times for active demolition work will be broadcast at least 48 hours in advance and vessels will be able to transit Oregon Inlet at all other times. The Coast Guard will issue a Local Notice to Mariners and transmit a Broadcast Notice to Mariners via VHF-FM marine channel 16 regarding the safety zone. There will be alternative navigation options for vessel traffic when a moving safety zone covers all or part of the navigation channel. Vessel traffic in this portion of Oregon Inlet will fluctuate between high, medium, and low depending on the time of the year. This rule does not allow vessels to request

permission to enter the moving safety zone covering the active demolition areas within Oregon Inlet during the designated times.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a 100-yard radius moving safety zone lasting from March 4, 2019, through March 30, 2020, that will prohibit entry into a portion of Oregon Inlet for bridge demolition. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental

Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

- 2. Add § 165.T05–1065 to read as follows:

§ 165.T05–1065 Safety Zone; Oregon Inlet, Dare County, NC.

(a) *Location.* The following area is a safety zone: all navigable waters of Oregon Inlet, within 100 yards of active demolition work and demolition equipment, along the old Herbert C. Bonner Bridge, which follows a line beginning at approximate position 35°46'47" N, 75°32'41" W, then southeast to 35°46'37" N, 75°32'33" W, then southeast to 35°46'09" N, 75°31'59" W, then southeast to 35°46'03" N, 75°31'51" W, then southeast to 35°46'01" N, 75°31'40" W (NAD 1983) in Dare County, NC.

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

Designated representative means a Coast Guard Patrol Commander, including a Coast Guard commissioned, warrant, or petty officer designated by the Captain of the Port North Carolina (COTP) for the enforcement of the safety zone.

Captain of the Port means the Commander, Sector North Carolina.

Demolition crews means persons and vessels involved in support of demolition.

(c) *Regulations.* (1) The general regulations governing safety zones in

§ 165.23 apply to the area described in paragraph (a) of this section.

(2) With the exception of demolition crews, entry into or remaining in this safety zone is prohibited.

(3) All vessels within this safety zone when this section becomes effective must depart the zone immediately.

(4) The Captain of the Port, North Carolina can be reached through the Coast Guard Sector North Carolina Command Duty Officer, Wilmington, North Carolina at telephone number 910–343–3882.

(5) The Coast Guard and designated security vessels enforcing the safety zone can be contacted on VHF–FM marine band radio channel 13 (165.65 MHz) and channel 16 (156.8 MHz).

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

(e) *Enforcement period.* This regulation will be enforced from March 4, 2019, through March 30, 2020.

(f) *Public notification.* The Coast Guard will notify the public of the active enforcement times at least 48 hours in advance by transmitting Broadcast Notice to Mariners via VHF–FM marine channel 16.

Dated: March 4, 2019.

Bion B. Stewart,

Captain, U. S. Coast Guard Captain of the Port North Carolina.

[FR Doc. 2019–04219 Filed 3–7–19; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51 and 52

[EPA–HQ–OAR–2018–0595; FRL–9990–33–OAR]

RIN 2060–AU08

Emissions Monitoring Provisions in State Implementation Plans Required Under the NO_x SIP Call

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is revising some of the regulations that were originally promulgated in 1998 to implement the NO_x SIP Call. The revisions give covered states greater flexibility concerning the form of the nitrogen oxides (NO_x) emissions monitoring requirements that the states must include in their state implementation plans (SIPs) for certain emissions sources. Other revisions remove

obsolete provisions and clarify the remaining regulations but do not substantively alter any current regulatory requirements.

DATES: This rule is effective as of March 8, 2019.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2018–0595. All documents in the docket are listed on the <http://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

David Lifland, Clean Air Markets Division, Office of Atmospheric Programs, U.S. Environmental Protection Agency, MC 6204M, 1200 Pennsylvania Avenue NW, Washington, DC 20460; 202–343–9151; lifland.david@epa.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Overview of the Action
 - A. Summary of Amendments and Estimated Impacts
 - B. Potentially Affected Entities
 - C. Statutory Authority
- II. Summary of the Proposal
 - A. Background
 - B. Proposed Amendment to Emissions Monitoring Requirements
 - C. Other Proposed Amendments
 - D. Public Comment Process
- III. Response to Comments
 - A. Emissions Monitoring Requirements
 - B. Emissions Reduction Requirements
 - C. Baseline Emissions Inventory Table
 - D. Post-NBTP Transition Requirements
- IV. Final Action
- V. Impacts of the Amendments
- VI. Statutory and Executive Order Reviews
 - A. Executive Order 12866: Regulatory Planning and Review, and Executive Order 13563: Improving Regulation and Regulatory Review
 - B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs
 - C. Paperwork Reduction Act
 - D. Regulatory Flexibility Act
 - E. Unfunded Mandates Reform Act
 - F. Executive Order 13132: Federalism
 - G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
 - H. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

- I. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use
- J. National Technology Transfer Advancement Act
- K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
- L. Congressional Review Act
- M. Determinations Under CAA Section 307(b) and (d)

I. Overview of the Action

This section provides an overview of the action, including a summary of the amendments and their estimated impacts as well as information concerning potentially affected entities and statutory authority.

Section II provides a summary of the proposal for this action, including background information. In section III, EPA summarizes and responds to comments received on the proposal. EPA's final action is set forth in section IV, and section V discusses the estimated impacts of the amendments. Section VI addresses reviews required under various statutes and executive orders as well as determinations concerning applicable rulemaking and judicial review provisions.

A. Summary of Amendments and Estimated Impacts

On September 27, 2018, EPA published in the **Federal Register** a proposal¹ to amend the existing NO_x SIP Call regulations² to allow states to amend their SIPs, for NO_x SIP Call purposes only, to establish emissions monitoring requirements for certain units other than requirements to monitor according to 40 CFR part 75. This action finalizes the amendment generally as proposed, with minor further revisions discussed in section IV of this document. Ultimately, such alternate monitoring requirements could be made available to sources through states' revisions to their SIPs, with consequent potential reductions in some units' monitoring costs. The group of units affected under the SIPs adopted to meet the NO_x SIP Call comprises both existing and new electricity generating units (EGUs) as well as certain other

existing and new industrial units (non-EGUs). Within this overall group, the set of existing units potentially affected by the amendment includes approximately 285 non-EGU boilers and combustion turbines and approximately 30 EGUs—specifically, combustion turbines that are considered large EGUs for NO_x SIP Call purposes and that are not required to monitor according to part 75 under other programs such as the Acid Rain Program or a Cross-State Air Pollution Rule (CSAPR) trading program. States, not EPA, will decide whether to revise the monitoring requirements in their SIPs as allowed under this amendment, and EPA lacks complete information on the remaining monitoring requirements that the sources would face if a state decides to make such revisions, leaving considerable uncertainty regarding the amount of monitoring cost reductions that may occur. However, using information from comments and assumptions concerning the sources' remaining monitoring requirements, EPA estimates annual monitoring cost reductions from this action in the range of \$1.2 million to \$3.3 million. Because this action is not expected to cause any change in emissions or air quality, the monitoring cost reductions will constitute net benefits from the action.

In addition, EPA is eliminating several obsolete provisions of the NO_x SIP Call regulations that no longer have any substantive effect on the regulatory requirements faced by states or sources and is making clarifying amendments—all of which EPA considers non-substantive—to the remaining regulations. The additional amendments also include updates to several cross-references in the CSAPR regulations that refer to an obsolete provision of the NO_x SIP Call regulations. The specific additional amendments discussed in the proposal are identified in section II.C. of this document, and the amendments are being finalized generally as proposed, with minor further revisions discussed in section IV of this document.

B. Potentially Affected Entities

This action does not apply directly to any emissions sources but instead amends existing regulatory requirements applicable to the SIPs of Alabama, Connecticut, Delaware, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, West Virginia, and the District of Columbia. If an affected jurisdiction chooses to revise its SIP in response to these amendments, sources in the jurisdiction could be indirectly affected

if they are subject to emissions monitoring requirements for purposes of the NO_x SIP Call and are not independently subject to comparable requirements under another program such as the Acid Rain Program or a CSAPR trading program. Generally, the types of sources that could be indirectly affected are fossil fuel-fired boilers and stationary combustion turbines with heat input capacities over 250 million British thermal units per hour (mmBtu/hr) or serving electricity generators with capacities over 25 megawatts (MW). Sources meeting these criteria operate in a variety of industries, including but not limited to the following:

NAICS* code	Examples of industries with potentially affected sources
221112 ...	Fossil fuel-fired electric power generation.
3112	Grain and oilseed milling.
3221	Pulp, paper, and paperboard mills.
3241	Petroleum and coal products manufacturing.
3251	Basic chemical manufacturing.
3311	Iron and steel mills and ferroalloy manufacturing.
6113	Colleges, universities, and professional schools.

* North American Industry Classification System.

C. Statutory Authority

Statutory authority for this action is provided by Clean Air Act (CAA) sections 110 and 301, 42 U.S.C. 7410 and 7601, which also provided statutory authority for issuance of the existing NO_x SIP Call regulations that EPA is amending in this action.³

II. Summary of the Proposal

This section summarizes the proposal for this action. Section II.A. repeats some of the background information from the proposal. Section II.B. addresses the proposed amendment to the NO_x SIP Call's emissions monitoring requirements, reiterating the proposed rationale and summarizing the proposal's discussion of projected impacts. Sections II.C. and II.D. summarize the remaining proposed amendments and describe the public comment process.

A. Background

Under the CAA, EPA establishes and periodically revises national ambient air quality standards (NAAQS) for certain pollutants, including ground-level ozone, while states have primary responsibility for attaining the NAAQS through the adoption of emission control measures in their SIPs. Under CAA section 110(a)(2)(D)(i)(I), 42 U.S.C. 7410(a)(2)(D)(i)(I), often called the "good neighbor" provision, each state is

³ See, e.g., 63 FR at 57366, 57479.

¹ Emissions Monitoring Provisions in State Implementation Plans Required Under the NO_x SIP Call, Proposed Rule, 83 FR 48751 (Sept. 27, 2018).

² Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone (NO_x SIP Call), 63 FR 57356 (Oct. 27, 1998) (codified in relevant part at 40 CFR 51.121 and 51.122). Amendments to the NO_x SIP Call regulations made between issuance and implementation are described in the proposal for this action, 83 FR at 48755 & nn.11–15.

required to include provisions in its SIP prohibiting emissions that “will . . . contribute significantly to nonattainment in, or interfere with maintenance by, any other State with respect to any [NAAQS].” In 1998, EPA issued the NO_x SIP Call (the Rule) identifying good neighbor obligations with respect to the 1979 1-hour ozone NAAQS and calling for SIP revisions to address those obligations.⁴ The Rule’s regulatory text was codified at 40 CFR 51.121, addressing the required SIP revisions, and 40 CFR 51.122, addressing states’ periodic reporting requirements. As implemented, the Rule required 20 states and the District of Columbia⁵ to revise their SIPs to reduce their sources’ emissions of NO_x, an ozone precursor, during the May–September “ozone season” starting in 2004.

To implement the NO_x SIP Call’s emissions reduction requirements, EPA promulgated a “budget” for the statewide seasonal NO_x emissions from each covered state. Each state’s emissions budget was calculated as the state’s projected 2007 pre-control or “baseline” emissions inventory minus the state’s required emissions reduction. The Rule did not mandate that states follow any particular approach for achieving their required emissions reductions. Instead, states retained wide discretion regarding which sources in their states to control and what control measures to employ. Each state was simply required to demonstrate that whatever control measures it chose to include in its SIP revision would be sufficient to ensure that projected 2007 statewide seasonal NO_x emissions from its sources would not exceed its emissions budget.

Besides the general flexibility given to states regarding the choices of sources and control measures, the NO_x SIP Call included additional provisions designed to increase compliance flexibility. Most notably, the Rule allowed states to adopt interstate emission allowance trading programs as control measures to

accomplish some or all of the required emissions reductions. EPA also provided a model rule for an EPA-administered interstate trading program—the NO_x Budget Trading Program (NBTP)—that would meet all the Rule’s SIP approval criteria for a trading program for two types of sources: Fossil fuel-fired EGU boilers and combustion turbines serving electricity generators with capacity ratings greater than 25 MW (large EGUs), and fossil fuel-fired non-EGU boilers and combustion turbines with heat input ratings greater than 250 mmBtu/hr (large non-EGU boilers and turbines).

While generally oriented toward providing states and sources with compliance flexibility, the NO_x SIP Call also included two conditional provisions that would become mandatory SIP requirements for large EGUs and large non-EGU boilers and turbines if states chose to include any emission control measures for these types of sources in their SIP revisions. First, under § 51.121(f)(2), any control measures imposed on these types of sources would be required to include enforceable limits on the sources’ seasonal NO_x mass emissions. These limits could take several forms, including either limits on individual sources or collective limits on the group of all such sources in a state. Second, under § 51.121(i)(4), these sources would be required to monitor and report their seasonal NO_x mass emissions according to the provisions of 40 CFR part 75.⁶ One way a state could meet these two SIP requirements was to adopt the NBTP, because the NBTP included provisions addressing both requirements and was expressly designed as a potential control measure for these types of sources.

All the jurisdictions subject to the NO_x SIP Call as implemented ultimately chose to adopt the NBTP for large EGUs and large non-EGU boilers and turbines as part of their required SIP revisions. By adopting control measures applicable to large EGUs and large non-EGU boilers and turbines into their SIPs, all the affected jurisdictions triggered the obligations for their SIPs to include enforceable mass emissions limits and part 75 monitoring requirements for these types of sources. These requirements have remained in effect despite the discontinuation of the NBTP following the 2008 ozone season.⁷

The NBTP was implemented starting in 2003 for sources in several northeastern states and in 2004 for sources in most of the remaining NO_x SIP Call states. Missouri sources joined the NBTP in 2007, and EPA continued to administer the NBTP through the 2008 ozone season. Since the 2008 ozone season, EPA has replaced the NBTP with a series of three similar interstate emission allowance trading programs designed to address eastern states’ good neighbor obligations with respect to ozone NAAQS more recent than the 1979 1-hour ozone NAAQS. The NBTP’s three successor seasonal NO_x trading programs were established under the Clean Air Interstate Rule (CAIR),⁸ which was remanded to EPA for replacement;⁹ the original CSAPR,¹⁰ which replaced CAIR; and most recently the CSAPR Update.¹¹ The seasonal NO_x trading programs established under CAIR and the original CSAPR were both designed to address the 1997 8-hour ozone NAAQS, while the trading program established under the CSAPR Update was designed to address the 2008 8-hour ozone NAAQS. The CAIR seasonal NO_x trading program operated from 2009 through 2014, the original CSAPR seasonal NO_x trading program started operating in 2015,¹² and the CSAPR Update trading program started operating in 2017.

For purposes of this action, the most important difference between the NBTP and its successor seasonal NO_x trading programs concerns the types of sources participating in the various programs. As discussed above, the NBTP was designed to cover both large EGUs and large non-EGU boilers and turbines. In contrast, by default the three successor trading programs have covered only units considered EGUs under those

process heaters, cement kilns, and smaller EGUs. Unlike large EGUs and large non-EGU boilers and turbines, the additional sources are not subject to the NO_x SIP Call’s ongoing obligation under § 51.121(i)(4) for SIPs to include part 75 monitoring requirements and therefore are not affected by the amendments being finalized in this action.

⁴ 70 FR 25162 (May 12, 2005) (SIP requirements); 71 FR 25328 (Apr. 28, 2006) (parallel Federal implementation plan requirements).

⁵ *North Carolina v. EPA*, 531 F.3d 896 (D.C. Cir. 2008), modified on rehearing, 550 F.3d 1176 (D.C. Cir. 2008).

⁶ 76 FR 48208 (Aug. 8, 2011); see also 76 FR 80760 (Dec. 27, 2011) (adding seasonal NO_x emissions reduction requirements for sources in five states), 79 FR 71663 (Dec. 3, 2014) (tolling implementation dates by three years).

⁷ 81 FR 74504 (Oct. 26, 2016). Consolidated challenges to the CSAPR Update are pending in *Wisconsin v. EPA*, No. 16–1406 (D.C. Cir. argued Oct. 3, 2018).

⁸ The original CSAPR seasonal NO_x trading program remains in effect for sources in Georgia but after 2016 has not applied to sources in any state subject to the NO_x SIP Call as implemented.

⁴ 63 FR 57356. As described in the proposal for this action, an amendment to the NO_x SIP Call made before the Rule’s implementation indefinitely stayed the additional findings of good neighbor obligations with respect to the 1997 8-hour ozone NAAQS that were included in the Rule as issued. See 83 FR at 48755.

⁵ The Rule as implemented applies to Connecticut, Delaware, Illinois, Indiana, Kentucky, Maryland, Massachusetts, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, and West Virginia; portions of Alabama, Michigan, and Missouri; and the District of Columbia. For simplicity, this document often refers to all the jurisdictions with obligations under the CAA and the NO_x SIP Call, including the District of Columbia, as “states.”

⁶ For brevity, this document generally refers to the monitoring, recordkeeping, and reporting requirements in 40 CFR part 75 as “part 75 monitoring requirements.”

⁷ Some states expanded NBTP applicability under their SIPs to include additional sources such as

programs, which generally means all units that would be classified as NO_x SIP Call large EGUs as well as a small subset of the units that would be classified as NO_x SIP Call large non-EGU boilers and turbines.¹³ Under the CAIR seasonal NO_x trading program, most NO_x SIP Call states exercised an option to expand program applicability to include all their NO_x SIP Call large non-EGU boilers and turbines, but the option was eliminated under the original CSAPR seasonal NO_x trading program and no state has exercised the restored option made available under the CSAPR Update trading program. Consequently, at present most NO_x SIP Call large non-EGU boilers and turbines do not participate in a successor trading program to the NBTP.

The second relevant difference between the NBTP and its successor trading programs concerns the various programs' geographic areas of coverage. At present, EGUs in fourteen NO_x SIP Call states participate in the CSAPR Update trading program.¹⁴ EGUs in the remaining seven NO_x SIP Call jurisdictions do not currently participate in a successor trading program to the NBTP, although most such units are subject to other EPA programs with comparable part 75 monitoring requirements.¹⁵

In the CAIR rulemaking, EPA amended the NO_x SIP Call regulations both to provide that the NBTP would be discontinued upon implementation of the CAIR seasonal NO_x trading program and to require states to adopt replacement control measures into their SIPs to ensure continued achievement of the portions of their NO_x SIP Call emissions reduction requirements that

¹³ For example, under the NO_x SIP Call as implemented, a unit qualifying as exempt from the Acid Rain Program under the provision for cogeneration units at 40 CFR 72.6(b)(4) would be classified as a non-EGU, but in some instances such a unit could be covered under the CAIR, original CSAPR, and CSAPR Update trading programs as an EGU.

¹⁴ The CSAPR Update applies to EGUs in the NO_x SIP Call states of Alabama, Illinois, Indiana, Kentucky, Maryland, Michigan, Missouri, New Jersey, New York, Ohio, Pennsylvania, Tennessee, Virginia, and West Virginia as well as eight additional states that are not subject to the NO_x SIP Call as implemented.

¹⁵ EGUs in the NO_x SIP Call jurisdictions of Connecticut, Delaware, Massachusetts, North Carolina, Rhode Island, South Carolina, and the District of Columbia are not subject to the CSAPR Update. All NO_x SIP Call EGUs in North Carolina and South Carolina are required to monitor NO_x mass emissions according to part 75 under a CSAPR trading program for annual NO_x emissions, and most NO_x SIP Call EGUs in the remaining jurisdictions are required to monitor NO_x emission rate and heat input rate according to part 75 under the Acid Rain Program.

had been met through the NBTP.¹⁶ As noted above, notwithstanding the discontinuation of the NBTP, the NO_x SIP Call's requirements for enforceable mass emissions limits and part 75 monitoring have continued to apply to large EGUs and large non-EGU boilers and turbines in all affected states. Since the CAIR rulemaking, EPA has worked with NO_x SIP Call states individually to assist them in revising their SIPs to meet these ongoing NO_x SIP Call requirements, whether through use of the NBTP's successor trading programs (to the extent those options have been available) or through other replacement control measures.

Under CAA section 107(d)(3)(E), 42 U.S.C. 7407(d)(3)(E), redesignation of an area to attainment of a NAAQS requires a determination that the improvement in air quality is due to "permanent and enforceable" emissions reductions. At least 140 EPA final actions redesignating areas in 20 states to attainment with an ozone NAAQS or a fine particulate matter (PM_{2.5}) NAAQS—because NO_x is a precursor to PM_{2.5} as well as ozone—have relied in part on the NO_x SIP Call's emissions reductions.¹⁷ In this action, to avoid any possible argument that amendments to the NO_x SIP Call might result in a lessening of permanence and enforceability that could threaten continued reliance on the Rule's emissions reductions to support other actions, EPA is not substantively amending the Rule's key provisions supporting these attributes. These key provisions include the statewide emissions budgets and general enforceability and monitoring requirements as well as the requirements for enforceable limits on seasonal NO_x mass emissions from large EGUs and large non-EGU boilers and turbines.¹⁸ As discussed in section II.B.

¹⁶ 40 CFR 51.121(r); *see also* 40 CFR 51.123(bb) and 52.38(b)(10)(ii) (authorizing use of CAIR and CSAPR Update seasonal NO_x trading programs as NBTP replacement control measures for large non-EGU boilers and turbines).

¹⁷ *See* Redesignation Actions Relying on NO_x SIP Call Emissions Reductions (August 2018), available in the docket for this action. EPA notes that reliance on the Rule's emissions reductions as permanent and enforceable for purposes of redesignation actions has been upheld by multiple courts of appeals. *Sierra Club v. EPA*, 774 F.3d 383, 397–99 (7th Cir. 2014); *Sierra Club v. EPA*, 793 F.3d 656, 665–68 (6th Cir. 2015).

¹⁸ EPA notes that the implementation rules for both the 1997 ozone NAAQS and the 2008 ozone NAAQS have required that the NO_x SIP Call in general and states' emissions budgets in particular will continue to apply after revocation of the previous NAAQS and have also made clear that any modifications to control requirements approved into a SIP pursuant to the Rule are subject to anti-backsliding requirements under CAA section 110(l), 42 U.S.C. 7410(l). *See* 40 CFR 51.905(f), 51.1105(e).

of this document, EPA believes that under current circumstances, the amendment to allow states to establish alternate monitoring requirements for large EGUs and large non-EGU boilers and turbines does not undermine assurance that the Rule's required emissions reductions will continue to be achieved and therefore does not pose a risk to the permanence and enforceability of the emissions reductions.

B. Proposed Amendment to Emissions Monitoring Requirements

The only substantive amendment to the NO_x SIP Call regulations proposed for this action concerns emissions monitoring requirements. Under 40 CFR 51.121(i)(4) of the regulations as originally promulgated, where a state's SIP revision contains control measures for large EGUs or large non-EGU boilers and turbines, the SIP must also require part 75 monitoring for these types of sources. As discussed in section II.A. of this document, all NO_x SIP Call states triggered this requirement by including control measures in their SIPs for these types of sources, and the requirement has remained in effect despite the discontinuation of the NBTP after the 2008 ozone season. For this action, EPA proposed to amend the provision at § 51.121(i)(4) to make the inclusion of part 75 monitoring requirements for these sources in SIPs optional rather than mandatory for NO_x SIP Call purposes.¹⁹ The SIPs would still need to include some form of emissions monitoring requirements for these types of sources, consistent with the Rule's general enforceability and monitoring requirements at § 51.121(f)(1) and (i)(1), respectively, but states would no longer be required to satisfy these general Rule requirements specifically through the adoption of part 75 monitoring requirements. EPA noted that finalization of this proposed amendment would not in itself eliminate part 75 monitoring requirements for any sources but would enable EPA to approve SIP submittals replacing these requirements for NO_x SIP Call purposes with other forms of monitoring requirements.

In the proposal, EPA discussed the following rationale for the proposed amendment to emissions monitoring requirements.²⁰ The condition that SIPs must include part 75 monitoring requirements was established based on

¹⁹ The amendment would apply only for NO_x SIP Call purposes and would not authorize states to create exceptions to any part 75 monitoring requirements that might apply to a source under a different legal authority.

²⁰ 83 FR at 48757–58.

determinations that, first, a requirement for mass emissions limits for large EGUs and large non-EGU boilers and turbines was feasible and provided the greatest assurance that the NO_x SIP Call's required emissions reductions would be achieved, and second, part 75 monitoring was a feasible and cost-effective way to ensure compliance with the mass emissions limits for these sources.²¹ (Part 75 monitoring requirements were also established independently as an essential element of the now-discontinued NBTP, which like EPA's other emission allowance trading programs could function only with timely reporting of consistent, quality-assured mass emissions data by all participating units.) To ensure that the NO_x SIP Call's emissions reductions can continue to be relied on as permanent and enforceable for purposes

of other actions, EPA did not propose to amend the Rule's existing requirements regarding enforceable mass emissions limits for these sources. However, EPA proposed the view that under current circumstances, allowing states to establish alternate monitoring requirements for large EGUs and large non-EGU boilers and turbines would not pose a risk to the permanence and enforceability of the Rule's emissions reductions.

The first relevant current circumstance EPA discussed was the substantial margins by which all NO_x SIP Call states are now complying with the portions of their statewide emissions budgets assigned to large EGUs and large non-EGU boilers and turbines. As shown in Table 1 of the proposal, which is reproduced without change as Table 1 of this document, in 2017, seasonal

NO_x emissions from sources that would have been subject to the NBTP across the region covered by the NO_x SIP Call were approximately 200,000 tons, which is less than 40% of the sum of the relevant portions of the statewide final NO_x budgets. Table 1 also shows that no state's reported emissions exceeded 71% of the relevant portion of its budget.²² As noted by EPA, these comparisons demonstrate that the Rule's required emissions reductions would continue to be achieved even with substantial increases in emissions from current levels. EPA also observed that the possibility of such large increases in emissions is remote because of requirements under other state and Federal environmental programs²³ and changes to the fleet of affected sources since 2008.²⁴

TABLE 1—2017 EMISSIONS AND RELEVANT EMISSIONS BUDGET AMOUNTS BY STATE

State	NO _x emissions during the 2017 ozone season (tons) from:				Portion of statewide emissions budget assigned to NBTP sources (tons)
	NBTP sources also subject to part 75 under other programs	Other NBTP large EGUs and large non-EGU boilers and turbines	Other NBTP sources subject to part 75 under NSC SIPs	Total for all NBTP sources	
Alabama (part)	7,166	1,911	0	9,077	25,497
Connecticut	380	10	39	430	4,477
Delaware	324	511	0	835	5,227
District of Columbia	0	20	0	20	233
Illinois	13,038	1,493	0	14,531	35,557
Indiana	20,396	1,201	823	22,419	55,729
Kentucky	19,978	75	0	20,053	36,109
Maryland	2,422	516	0	2,939	15,466
Massachusetts	734	113	32	879	12,861
Michigan (part)	14,580	205	0	14,785	31,247
Missouri (part)	9,486	0	0	9,486	13,459
New Jersey	1,646	310	0	1,956	13,022
New York	4,062	941	611	5,614	41,385
North Carolina	16,352	1,689	0	18,041	34,703
Ohio	20,012	993	0	21,005	49,842
Pennsylvania	13,616	837	0	14,453	50,843
Rhode Island	193	0	0	193	936
South Carolina	5,030	1,043	0	6,074	19,678
Tennessee	7,785	2,350	0	10,135	31,480
Virginia	7,462	589	0	8,051	21,195
West Virginia	18,187	276	0	18,463	29,507
Total	182,849	15,084	1,505	199,438	528,453

Data sources: Emissions data are from EPA's Air Markets Program Database, <https://ampd.epa.gov/ampd>. In a few cases where 2017 data are not available, the most recent available data are used instead. Budget data are from The NO_x Budget Trading Program: 2008 Emission, Compliance, and Market Analyses (July 2009) at 14, available in the docket for this action.

The second relevant current circumstance EPA discussed was that even with the proposed amendment, part 75 monitoring requirements would

remain in effect for most NO_x SIP Call large EGUs pursuant to other regulatory requirements, including the Acid Rain Program and the CSAPR trading

programs, and these large EGUs are responsible for most of the collective emissions of NO_x SIP Call large EGUs and large non-EGU boilers and turbines.

²¹ See 63 FR at 57451–52.

²² Reported 2017 emissions from Missouri sources were just over 70% of the relevant portion of the state's budget.

²³ For example, for the 11 states covered in their entirety under both programs—Illinois, Indiana, Kentucky, Maryland, New Jersey, New York, Ohio, Pennsylvania, Tennessee, Virginia, and West

Virginia—EGU emissions budgets under the current CSAPR Update seasonal NO_x trading program range from 17% to 66% of the portions of the respective states' NO_x SIP Call statewide budgets based on EGU emissions. Compare 40 CFR 97.810(a) (CSAPR Update budgets) with 65 FR 11222, 11225 (Mar. 2, 2000) (EGU-based portions of NO_x SIP Call statewide budgets).

²⁴ For example, sources responsible for over 40% of 2008 emissions reported under the NBTP have either ceased operation or switched from coal combustion to gas or oil combustion since 2008. See Post-2008 Changes to Units Reporting Under the NO_x Budget Trading Program (August 2018), available in the docket for this action.

Table 1 shows the portions of the reported seasonal NO_x emissions for each state reported by units that would continue to be subject to part 75 monitoring requirements even if the proposed amendments are finalized and all states choose to revise their SIPs.²⁵ As indicated in the table, the sources that would continue to report under part 75 account for over 90% of the overall emissions. If a state chooses to revise its SIP to no longer require part 75 monitoring for some sources, then under § 51.121(f)(1) and (i)(1)—which EPA did not propose to amend—the SIP would still have to include provisions requiring all large EGUs and large non-EGU boilers and turbines subject to control measures for purposes of the NO_x SIP Call to submit other forms of information on their seasonal NO_x emissions sufficient to ensure compliance with the control measures. EPA stated the belief that in the context of the substantial compliance margins discussed above, and given the continued availability of part 75 monitoring data from sources responsible for most of the relevant emissions, emissions data from the remaining sources submitted pursuant to other forms of monitoring requirements can provide sufficient assurance that the Rule's overall required emissions reductions will continue to be achieved.

In the proposal's discussion of projected impacts,²⁶ EPA stated the expectation that the proposed amendments, if finalized, would have no impact on emissions or air quality because no changes would be made to any of the NO_x SIP Call's existing regulatory requirements related to statewide emissions budgets or enforceable mass emissions limits for large EGUs and large non-EGU boilers and turbines.

With respect to cost impacts, EPA expressed the expectation that, if the proposed amendment to monitoring requirements is finalized, at least some states would revise their SIPs to establish alternate monitoring requirements and at least some sources would experience reductions in monitoring costs. EPA indicated that there were approximately 310 existing large EGUs and large non-EGU boilers and turbines in NO_x SIP Call states that could potentially be affected by the proposed amendment to monitoring requirements if all affected states were

to revise their SIPs. The discussion also indicated how many of these units used each of the principal monitoring methodologies allowed under part 75 according to the monitoring plans submitted for the units. Specifically, EPA noted that approximately 90 units used monitoring methodologies involving continuous emissions monitoring systems (CEMS) to measure both stack gas flow rate and the concentrations of certain gases in the effluent gas stream, approximately 140 units used methodologies involving gas concentration CEMS but not stack gas flow rate CEMS, and approximately 80 units used non-CEMS methodologies. The proposal noted that it was not possible to predict the amount of the monitoring cost reductions that might eventually result from finalization of the proposed monitoring amendment because states, not EPA, would decide whether to revise the monitoring requirements in their SIPs and because EPA lacks information on the remaining monitoring requirements that sources would face. However, EPA qualitatively discussed how alternate monitoring requirements could result in reduced costs for units currently using the various part 75 monitoring methodologies. For example, some units that currently use part 75 monitoring methodologies involving the use of stack gas flow rate CEMS might be allowed to discontinue use of those CEMS, some units that currently use part 75 monitoring methodologies involving the use of gas concentration CEMS might be allowed to discontinue use of those CEMS, and some units continuing to use one or both types of CEMS might be allowed to perform less extensive data reporting or less comprehensive quality-assurance testing. EPA expressed the expectation that units currently using non-CEMS methodologies under part 75 would experience little or no reduction in monitoring costs as a result of the proposed monitoring amendment.

C. Other Proposed Amendments

In addition to the proposed amendment to the NO_x SIP Call's monitoring requirements discussed in section II.B. of this document, EPA proposed to make several further amendments to the Rule's regulatory text at 40 CFR 51.121 and 51.122 to remove obsolete provisions and clarify the remaining provisions. The proposed revisions also included updates to several cross-references in the CSAPR regulations at 40 CFR 52.38 that refer to an obsolete provision of the NO_x SIP Call regulations. Although EPA proposed to remove or modify

numerous provisions of the NO_x SIP Call regulations,²⁷ the proposal explained that the additional amendments were not intended to substantively alter any currently effective regulatory requirements. Briefly, EPA proposed to:

- Rescind and remove the stayed and superseded findings of good neighbor obligations with respect to the 1997 8-hour ozone NAAQS at § 51.121(a)(2), remove § 51.121(q) staying the now-rescinded findings, and remove obsolete related language in § 51.121(c)(1) and (2);
- Clarify the expression of Phase I and existing final emissions reduction requirements by removing the table of required incremental Phase II emissions reduction amounts at § 51.121(e)(3), adding a column of Phase I budget amounts to the existing table of final budget amounts in § 51.121(e)(2)(i), revising the definitions of “Phase I SIP submission” and “Phase II SIP submission” at § 51.121(a)(3)(i) and (ii), and making related revisions at § 51.121(b)(1) introductory text and (b)(1)(i);
- Remove § 51.121(e)(4), which governs the former compliance supplement pool;
- Remove § 51.121(e)(5), which sets forth a one-time process for revising the emissions inventories and budgets published as part of the original Rule;
- Remove § 51.121(g)(2)(ii), which contains an obsolete table of baseline emissions inventory information originally intended to help states prepare their required SIP revisions;
- Remove § 51.121(p) and (b)(2), which authorize the use of the former NBTP and other potential interstate trading programs, respectively, as compliance options;
- Make clarifying revisions to § 51.121(r)(2), which sets forth the post-NBTP transition requirements;
- Remove § 51.121(d)(1), which contains obsolete deadlines for Phase I and Phase II SIP submissions, and § 51.121(d)(2), which contains obsolete or duplicative procedural provisions concerning the completeness and format of SIP submissions;
- Remove or update obsolete cross-references in the NO_x SIP Call regulations at §§ 51.121(b)(1)(i), (g)(2)(i) and (r)(1) and (2) and 51.122(c)(1)(ii) and in the CSAPR regulations at

²⁵ Although the Acid Rain Program does not require units to report NO_x mass emissions specifically, NO_x mass emissions can be calculated from other part 75 data that are required to be reported.

²⁶ 83 FR at 48761–62.

²⁷ A redline-strikeout document showing the text of 40 CFR 51.121 and 51.122 with the amendments adopted in this action, which include all the proposed amendments to the NO_x SIP Call regulations with the further revisions discussed in section IV of this document, is available in the docket for this action.

§ 52.38(b)(8)(ii), (b)(8)(iii)(A)(2), (b)(9)(ii), and (b)(9)(iii)(A)(2); and

- Make clarifying editorial revisions to § 51.121 heading, (b)(1)(ii), (e)(2)(ii)(B) and (E), (f)(2)(i)(B), (f)(2)(ii), (h), (i)(2),(3), and (5), (l)(1) and (2), (m), (n), and (o).

These proposed further amendments as well as EPA's supporting rationales are fully discussed in the proposal.²⁸ The discussions in the proposal are incorporated herein and are not summarized further in this document except as necessary to respond to comments in sections III.B. through III.D of this document.

D. Public Comment Process

In the proposal, EPA requested comment on the proposed amendment to revise the provision at 40 CFR 51.121(i)(4) to allow states to establish monitoring requirements for large EGUs and large non-EGU boilers and turbines in their SIPs other than part 75 monitoring requirements. With respect to the remaining proposed amendments, EPA made clear that the amendments were not intended to substantively alter existing regulatory requirements and consequently requested comment solely on whether the provisions proposed for removal as obsolete in fact are obsolete and on whether the proposed clarifications in fact achieve clarification. EPA did not reopen for comment any provisions of the existing NO_x SIP Call regulations except the provisions that were proposed to be amended as discussed in the proposal²⁹ and did not reopen or request comment on amending any other existing regulations. The proposal also provided information on how to request a public hearing. No public hearing was held because none was requested, and the public comment period closed on October 29, 2018.

III. Response to Comments

Commenters on the proposal included states, source owners, industry

²⁸ 83 FR at 48758–61.

²⁹ Regulatory findings and requirements that EPA did not propose to substantively amend include (but are not limited to) the findings of good neighbor obligations with respect to the 1979 1-hour ozone NAAQS, the requirements for SIPs to contain control measures addressing these obligations, the final NO_x budgets, the requirement for enforceable limits on seasonal NO_x mass emissions for large EGUs and large non-EGU boilers and turbines where states have included control measures for these types of sources in their SIPs, the requirement for states to adopt replacement control measures into their SIPs to achieve the emissions reductions formerly projected to be achieved by the NBTP, and the general requirements for enforceability and for monitoring of the status of compliance with the control measures adopted.

associations, environmental organizations, and persons commenting as individuals. The comments are available in the docket for this action. In this section, EPA summarizes and responds to the comments regarding the proposed amendments, including requests for clarification. Sections III.A through III.D. address the proposed amendments to the NO_x SIP Call's provisions concerning emissions monitoring requirements, emissions reduction requirements, the baseline emissions inventory table, and post-NBTP transition requirements, respectively.

With respect to the proposed amendments not addressed in sections III.A. through III.D., EPA received no adverse comments or requests for clarification. One commenter stated no objection to or supported most of these amendments individually, and additional commenters expressed general support for all the amendments removing obsolete provisions or all the amendments clarifying the remaining regulations. EPA thanks the commenters for these comments, which are not discussed further in this document.

Some commenters also submitted comments on topics other than the NO_x SIP Call regulations. These comments are outside the scope of the proposal and are not discussed further in this document.

A. Emissions Monitoring Requirements

Comment: Most commenters supported the proposed amendment to the NO_x SIP Call's monitoring requirements. These commenters generally expressed the view that requirements to perform part 75 monitoring solely for purposes of the NO_x SIP Call are no longer necessary to ensure states' compliance with the Rule's emissions reduction requirements. Most of these commenters also generally indicated that allowing the use of alternate monitoring requirements would result in reduced monitoring costs for some sources.

Response: EPA agrees with these comments' support for the proposed amendment to the Rule's monitoring requirements.

Comment: Some commenters, while generally supporting the proposed monitoring amendment, stated that EPA should also make further amendments to the NO_x SIP Call's monitoring provisions to authorize particular forms of alternate monitoring requirements. Specifically, two commenters requested an amendment providing that, if a demonstration is made that emissions from a state's large non-EGU boilers and turbines "will not exceed the

[emissions] budget . . . established" for such sources, then those sources would be allowed to determine reported NO_x emissions according to a methodology based on the use of emission factors—that is, factors approved as estimates of the quantity of NO_x emitted per unit of fuel combusted—and information on fuel consumption. Another commenter requested an amendment to authorize methodologies involving the use of gas concentration CEMS installed and operated in accordance with the provisions of 40 CFR part 60 in addition to the monitoring methodology preferred by the two previously mentioned commenters. Another commenter, without expressing a preference for a particular form of alternate monitoring requirements, recommended that EPA issue model rule language for alternate monitoring requirements that would be approvable in SIP revisions.

Most commenters supporting the proposed monitoring amendment did not request that EPA make further amendments to identify particular permissible alternate monitoring requirements or issue model rule language. One of these commenters specifically recommended that EPA defer to states' choices regarding alternate monitoring requirements to the maximum extent allowable.

Response: EPA disagrees with the comments seeking further amendments to identify specifically permissible alternate monitoring requirements or issue model rule language and agrees with the comments supporting the monitoring amendment as proposed without such further amendments. Upon finalization of the proposed amendment to the NO_x SIP Call regulations making the inclusion of part 75 monitoring requirements in SIPs optional rather than mandatory, states would have the flexibility to establish their own preferred forms of monitoring requirements for NO_x SIP Call purposes, subject to the existing general provisions at § 51.121(i) introductory text and (i)(1) concerning SIP monitoring requirements—provisions that EPA did not propose to amend. Under the general monitoring provisions, which closely parallel the longstanding provisions concerning SIP source surveillance requirements at 40 CFR 51.210 and 51.211, each SIP revision must provide for monitoring the status of compliance with any control measures adopted to achieve the NO_x SIP Call's emissions reduction requirements, and the monitoring must be sufficient to determine whether sources are in compliance with the control measures. Nothing in these

general monitoring provisions precludes the commenters' preferred forms of monitoring requirements where such requirements are shown to be sufficient to meet these criteria. Thus, the further amendments suggested by the commenters are unnecessary, because where a state agrees that the commenters' preferred forms of monitoring requirements are appropriate, the state may obtain approval of those requirements simply by submitting a SIP revision that adopts those requirements and demonstrating that the revision satisfies the general monitoring provisions and does not conflict with any other applicable CAA requirement.³⁰ For the same reasons that EPA considers it reasonable under current circumstances to make part 75 monitoring optional rather than mandatory for NO_x SIP Call purposes (as discussed in section II.B. of this document), EPA also considers it reasonable to defer to states' choices regarding alternate monitoring requirements for NO_x SIP Call purposes to the extent consistent with the general monitoring provisions at § 51.121(i) introductory text and (i)(1).

In addition, EPA believes that inclusion of the suggested further amendments would not be particularly useful in providing certainty of the approvability of any specific state regulation implementing the commenters' preferred forms of monitoring requirements. Notwithstanding any endorsement of a particular overall monitoring approach that EPA might include in the regulations, given the need to satisfy the NO_x SIP Call's general monitoring provisions just discussed, EPA would still need to individually review the specific alternate monitoring requirements in each SIP revision to support a determination that the monitoring is sufficient to ensure compliance with the NO_x SIP Call's emissions reduction requirements. For example, EPA would need to consider whether each regulation contains adequate provisions to avoid gaps in required monitoring and whether a regulation following an emission factor approach employs emission factors that are designed to avoid any bias toward understatement of emissions. Approval of each SIP revision would also be subject to notice-and-comment

³⁰ EPA notes that for purposes of demonstrating that the replacement monitoring requirements would be sufficient to ensure compliance with the emissions requirements, a state generally would be able to cite the same types of data that EPA presented in the proposal to support the proposed amendment to the NO_x SIP Call's monitoring requirements.

procedures. While in theory EPA could provide greater certainty of the approvability of certain forms of alternate monitoring requirements by issuing model rule language, EPA believes issuance of such language in this instance is neither necessary nor consistent with EPA's general intent of deferring to states' preferences regarding alternate monitoring requirements for NO_x SIP Call purposes.

Comment: One commenter stated that amending the NO_x SIP Call regulations to allow sources that currently monitor using CEMS to switch to alternate monitoring methods would be inconsistent with CAA section 110(l), 42 U.S.C. 7410(l), known as the "anti-backsliding" provision, which prohibits EPA from approving any implementation plan revision that would interfere with any applicable requirement under the CAA. The commenter stated that effective and accurate emissions monitoring is needed to protect against backsliding and that allowing sources to use monitoring approaches less effective than CEMS monitoring would be inconsistent with section 110(l) because it would deprive communities and regulators of timely or reliable emissions information needed to identify possible violations of emissions standards and to facilitate enforcement actions.

Response: EPA disagrees with this comment. As a preliminary matter, EPA notes that CAA section 110(l) applies to EPA actions determining to approve implementation plan revisions, not other EPA actions that might affect the matters that are required to be addressed through such implementation plan revisions. Thus, this action to amend the NO_x SIP Call regulations is not subject to section 110(l). At the same time, no Agency-issued regulation can negate or otherwise modify the Congressionally-established prohibition in section 110(l) against approval of implementation plan revisions that would permit backsliding. For this reason, notwithstanding the content of any amendment to the NO_x SIP Call regulations finalized in this action, approval of any SIP submissions made in response to such an amendment will necessarily still be subject to anti-backsliding requirements under section 110(l).

Substantively, the proposed amendment to monitoring requirements is not inconsistent with the purpose of section 110(l) because there is no reason to expect that a SIP submission seeking only to revise monitoring requirements for NO_x SIP Call purposes would result in increased emissions or otherwise

interfere with any other CAA requirement, in light of the criteria for approval of such a SIP submission. That is, the amendments proposed for this action make no changes to the NO_x SIP Call's existing regulatory requirements related to statewide emissions budgets or enforceable mass emissions limits for large EGUs and large non-EGU boilers and turbines. As discussed in response to a previous comment, under § 51.121(i) introductory text and (i)(1) any alternate monitoring requirements approved into a SIP for NO_x SIP Call purposes must be sufficient to determine whether the state's sources are in compliance with the control measures adopted to meet the Rule's emissions requirements. Given continued implementation of SIP requirements governing the unchanged amounts of allowable emissions, accompanied by replacement monitoring requirements sufficient to ensure compliance with the unchanged emissions requirements, a SIP revision adopted in response to the proposed amendments would not be expected to result in increases in emissions that could interfere with other statutory or regulatory requirements.

The commenter's suggestion that CEMS emissions data provided pursuant to NO_x SIP Call requirements is necessary to provide emissions information to identify violations of and enforce other emissions standards is outside the scope of the proposal. The NO_x SIP Call's monitoring requirements were promulgated to provide monitoring information sufficient to ensure compliance with the control measures adopted to achieve the Rule's emissions reduction requirements.³¹ Monitoring requirements to ensure compliance with other emissions requirements are generally established as part of the regulations that establish each specific emissions requirement or through monitoring-focused regulations such as the source surveillance regulations at 40 CFR part 51, subpart K, or the compliance assurance monitoring regulations at 40 CFR part 64. Any concerns about the adequacy of the monitoring requirements established under other regulations would be properly raised as comments in the actions promulgating those regulations or as requests for new rulemaking, not as comments on this action addressing monitoring requirements under the NO_x SIP Call regulations. In the proposal for this action, EPA did not propose to alter any monitoring requirements under any

³¹ See 83 FR at 48757.

regulations other than the NO_x SIP Call regulations.

Comment: One commenter stated that amending the NO_x SIP Call regulations to allow sources that currently monitor using CEMS to switch to alternate monitoring methods would be inconsistent with CAA section 504(b), 42 U.S.C. 7661c(b), which authorizes EPA to prescribe monitoring requirements for the operating permits that certain sources are required to obtain pursuant to CAA title V. The commenter cited a portion of the provision stating that “continuous emissions monitoring need not be required if alternative methods are available that provide sufficiently reliable and timely information for determining compliance” and stated that because CEMS monitoring is the most reliable and timely monitoring method for determining compliance with NO_x emissions limits, it would be unreasonable and inconsistent with section 504(b) for EPA to allow sources which already have CEMS equipment installed to use less reliable and timely monitoring approaches.

Response: EPA disagrees with this comment. While CAA section 504(b) provides EPA with authority to prescribe monitoring requirements for title V operating permits, it does not require EPA to exercise that authority in any particular situation and hence does not impose any statutory requirement applicable to this action. Further, even accepting for purposes of argument the comment’s premise that the conditions that would apply to an exercise of EPA’s authority under section 504(b) should also apply to EPA’s establishment of monitoring requirements for NO_x SIP Call purposes, the proposed monitoring amendment is neither unreasonable nor inconsistent with those conditions. As noted in the comment, section 504(b) explicitly provides that EPA need not exercise its authority under the section so as to require CEMS in circumstances where alternate monitoring methods sufficient to determine compliance are available. In the proposal, EPA presented recent emissions data and expressed the view that, given the current substantial margins by which the sets of large EGUs and large non-EGU boilers and turbines in all NO_x SIP Call states are complying with the relevant portions of the statewide emissions budgets as well as the fact that most of the relevant emissions will continue to be monitored according to part 75 under other programs, monitoring of the remaining emissions using non-part 75 approaches can now provide sufficient assurance that the Rule’s required emissions reductions

will continue to be achieved.³² The commenter does not challenge EPA’s assessment. EPA’s rationale for proposing the amendment closely parallels and is fully consistent with the conditions set forth in section 504(b) for the possible establishment of monitoring requirements other than CEMS monitoring requirements.

Moreover, neither of the commenter’s stated reasons for suggesting that it would be unreasonable or inconsistent with section 504(b) for EPA to allow the use of non-CEMS approaches is compelling. The first stated reason—that CEMS-based monitoring approaches would provide the *most* reliable and timely information for determining compliance with NO_x emission limits—is itself inconsistent with the statutory text which, as just discussed, explicitly indicates the potential acceptability of non-CEMS monitoring approaches that provide *sufficient* reliability and timeliness of information for determining compliance. The second stated reason—that the sources in question already have CEMS equipment installed—is incorrect for some of the sources potentially affected by the monitoring amendment and materially incomplete for all of them. The set of large EGUs and large non-EGU boilers and turbines subject to the NO_x SIP Call’s ongoing requirements discussed in this document includes both existing and new units. Some new units that would need to install CEMS equipment if required to monitor under part 75 might not need to install some or all of that CEMS equipment if part 75 monitoring were not required for NO_x SIP Call purposes. Further, as discussed in the proposal, even for a source that already has CEMS equipment installed, the source’s ongoing operating costs to monitor using the installed CEMS equipment could be higher than the source’s ongoing operating costs if the source were to switch to a non-CEMS monitoring approach.³³ Besides the factor of whether non-CEMS monitoring approaches that provide sufficiently reliable and timely information for determining compliance are available, the text of section 504(b) does not specify or limit other factors that EPA may consider when applying its authority under the section. Thus, it is neither unreasonable nor inconsistent with section 504(b) for EPA to consider

the likelihood that some sources would incur lower monitoring costs if allowed to use non-CEMS monitoring approaches for NO_x SIP Call purposes.

Comment: One commenter summarized several provisions of CAA section 110(a), 42 U.S.C. 7410(a), concluding with the interpretation that “a bedrock requirement for any implementation plan is for emissions monitoring requisite to ensure attainment and maintenance of the NAAQS.” The commenter further stated that the current network of ambient air quality monitors is “not robust enough to adequately assess levels of [ozone and particulate matter] in ambient air” and cited a study concerning satellite-based measurements of ambient air quality. The commenter concluded that “[g]iven this level of under-assessment of pollution problems and dramatic[] undercounting of nonattainment issues,” the proposed amendment to allow states to establish alternate emissions monitoring requirements “is wholly inconsistent with the Clean Air Act’s requirements.”

Response: EPA disagrees that the proposed amendment to the NO_x SIP Call regulations would be inconsistent with the statutory requirements under CAA section 110(a). The comment conflates the statutory provision authorizing EPA to prescribe emissions monitoring requirements for individual sources under CAA section 110(a)(2)(F) with the general requirement for ambient air quality monitoring under CAA section 110(a)(2)(B). Contrary to the commenter’s interpretation of CAA section 110(a), the data used to determine whether air quality in a given area meets the ozone or PM_{2.5} NAAQS are the data obtained through the ambient air quality monitoring network, not the data obtained through source emissions monitoring. Similarly, assessments of whether the emission control measures in effect are collectively sufficient to ensure attainment and maintenance of those NAAQS are made using monitored ambient air quality data or projected ambient air quality data (which necessarily reflect projected, not monitored, source emissions data). The amendments proposed for this action would not alter any regulatory requirements concerning ambient air quality monitoring, and comments on this topic are outside the scope of the proposal.

As discussed in response to a previous comment, the originally intended purpose served by the emissions monitoring requirements under the NO_x SIP Call was to ensure compliance with the control measures

³² 83 FR at 48757–58.

³³ 83 FR at 48761. Several commenters also discussed the significance of the operating and maintenance costs that are incurred to comply with monitoring requirements. See comments of North Carolina, Alcoa, Citizens Energy, Council of Industrial Boiler Owners, and Virginia Manufacturers Association.

adopted to achieve the Rule's emissions reduction requirements, not to ensure attainment and maintenance of the NAAQS. Amendment of the NO_x SIP Call as proposed for this action would not alter the provisions at § 51.121(i) introductory text and (i)(1) that set forth the ongoing general requirement for SIPs to include emissions monitoring sufficient for this purpose. The amendment would simply expand the options available to states for addressing the ongoing general requirement by eliminating the additional specific requirement at § 51.121(i)(4) for part 75 monitoring by large EGUs and large non-EGU boilers and turbines. Like the NO_x SIP Call's initial monitoring requirements, the Rule's monitoring requirements as amended would be fully consistent with CAA section 110(a)(2)(F), which authorizes EPA to prescribe emissions monitoring and reporting SIP requirements that may include requirements for "correlation of such [emissions] reports by the State agency with any emission limitations or standards" established under the CAA.

Comment: One commenter discussed the data EPA presented in the proposal regarding recent emissions reported by the sources that would have been subject to the former NBTP. While not disputing EPA's assessment that the data show that the sources in all states subject to the NO_x SIP Call are currently complying with the assigned portions of their respective statewide budgets by substantial margins, the commenter asserted that EPA's reliance on the data to support the proposed amendment to the Rule's monitoring requirements is misguided. The commenter questioned the relevance of EPA's assessment that non-part 75 monitoring by the sources not subject to part 75 monitoring requirements under other programs could now provide assurance of continued compliance with the NO_x SIP Call's emissions reduction requirements, suggesting that EPA should instead consider emissions targets more stringent than the Rule's existing budgets.

With regard to EPA's assessment that the substantial majority of emissions from large EGUs and large non-EGU boilers and turbines would continue to be monitored according to part 75 under other programs, the commenter observed that in certain states, the emissions from the subset of large EGUs and large non-EGU boilers and turbines potentially affected by the proposed monitoring amendment can be significant relative to the emissions from the remaining large EGUs and large non-EGU boilers and turbines that must continue to monitor their emissions

under part 75 for other programs. Based on this observation, the commenter concluded that, in these states, allowing the potentially affected sources to monitor using non-CEMS methodologies "will notably degrade the overall NO_x emissions data" from the sets of large EGUs and large non-EGU boilers and turbines in the states. The commenter also stated that the total amount of seasonal NO_x emissions from the potentially affected sources—approximately 15,000 tons in the 2017 ozone season—is "not trivial," but is significant in an absolute sense regardless of its relation to the amount of emissions from the sources that would still be subject to part 75 monitoring requirements under other programs. Noting that annual emissions of 100 tons can trigger classification of certain types of new or modified sources as "major sources" under other CAA programs, the commenter suggested that allowing sources that collectively produce 15,000 tons of seasonal NO_x emissions to stop using CEMS is comparable to excusing as many as 360 major sources from requirements to use NO_x CEMS under other programs.

Response: EPA continues to believe that the emissions data presented in the proposal provide compelling support for the proposed amendment to the NO_x SIP Call's emissions monitoring requirements. EPA disagrees with the commenter's suggestion that in evaluating possible changes to monitoring requirements under the NO_x SIP Call, rather than assessing whether alternate forms of monitoring would be sufficient to ensure compliance with the Rule's existing emissions reduction requirements, EPA should instead consider whether the alternate monitoring requirements would be sufficient to ensure compliance with more stringent emissions targets. As discussed in response to a previous comment, the Rule's monitoring requirements were established to provide monitoring information sufficient to ensure compliance with the control measures adopted to achieve the Rule's required emissions reductions, and monitoring requirements to ensure compliance with other emissions requirements are established in other regulations. Comments concerning whether the Rule's existing emissions reductions requirements are sufficiently stringent are outside the scope of the proposal. EPA did not propose to substantively alter any regulatory requirements other than the NO_x SIP Call's monitoring requirements.

With regard to the commenter's observations concerning the relative magnitudes of the respective total

amounts of emissions from sources potentially affected by the proposed monitoring amendment and other sources in certain states, EPA acknowledges that emissions from the potentially affected sources comprise larger shares of the total emissions from large EGUs and large non-EGU boilers and turbines in some states than others but disagrees with the suggestion that this fact should foreclose the possibility of allowing monitoring flexibility for NO_x SIP Call purposes. According to the recent emissions data presented in the proposal³⁴ and reproduced in Table 1 in section II.B. of this document, for six of the states identified in the comment—Alabama, Maryland, New Jersey, New York, South Carolina, and Tennessee—the total amount of emissions from the state's potentially affected sources was from 19% to 30% of the total amount of emissions from the state's remaining large EGUs and large non-EGU boilers and turbines, and for the last identified state—Delaware—the emissions from the state's potentially affected sources exceeded the emissions from the state's remaining large EGUs and large non-EGU boilers and turbines. However, even accepting the commenter's premise that allowing the potentially affected sources in these states to switch from CEMS methodologies to non-CEMS methodologies would reduce the accuracy of the total reported amounts of emissions from large EGUs and large non-EGU boilers and turbines, EPA believes that the compliance margins in these states are large enough that there would still be sufficient assurance that the NO_x SIP Call's emissions reduction requirements would continue to be achieved. In each of these states (as well as all the other states subject to the NO_x SIP Call), the emissions data in Table 1 indicate that, assuming no increase in the total emissions from the sources in the state that would continue to be subject to part 75 monitoring under other programs, the total emissions from the state's potentially affected sources could increase at least eightfold without causing the total emissions from the state's large EGUs and large non-EGU boilers and turbines to exceed the relevant portion of the statewide emissions budget.³⁵ Thus, again

³⁴ See 83 FR at 48758 (Table 1).

³⁵ The recent compliance margins for the individual NO_x SIP Call states indicated by the data in Table 1 range from 8.6 times to over 300 times the total reported emissions from the respective states' sets of potentially affected sources. For example, for Alabama, the data in Table 1 indicate a compliance margin of 16,420 tons (25,497 – 9,077 = 16,420), which is 8.6 times the reported emissions

assuming no increase in the total emissions from the sources in the state that would continue to be subject to part 75 monitoring under other programs, even if the total reported emissions data for the set of potentially affected sources in a state in some future ozone season were to understate the true emissions data because of less accurate measurements made using non-CEMS methodologies, in order for the total reported emissions data to incorrectly indicate compliance for the state when the true emissions data would indicate non-compliance, the cumulative measurement errors causing understatement of the true data—that is, the differences between the reported emissions data values and the true emissions data values for each source—would have to be several times larger than the reported data values.³⁶ The commenter does not suggest, and EPA does not believe, that the accuracy of non-CEMS monitoring approaches would be so poor as to allow such a scenario to occur. Moreover, if the commenter believes that the specific alternate monitoring approaches included in a particular state's SIP revision submitted for EPA's approval would provide insufficiently accurate data to ensure continued compliance with the control measures adopted in the state's SIP for NO_x SIP Call purposes, the notice-and-comment process for approval of the SIP revision would provide an opportunity for the commenter to raise that concern.

With regard to the commenter's observations concerning the significance of the total seasonal NO_x emissions from the potentially affected sources in an absolute sense, EPA agrees that a 15,000-ton quantity of seasonal NO_x emissions is "not [a] trivial" amount but disagrees with the suggestion that this fact should foreclose the possibility of allowing monitoring flexibility for NO_x SIP Call purposes. The proposed amendments would not alter any of the Rule's regulatory requirements concerning permissible amounts of emissions and would not eliminate the requirement for SIPs to provide for monitoring of the emissions from all large EGUs and large non-EGU boilers and turbines sufficient to ensure

from the state's potentially affected sources (16,420 + 1,911 = 8.6).

³⁶ For illustrative purposes, this example assumes both that the collective emissions from potentially affected sources in a state would increase by the amount necessary to cause non-compliance for the state and that the alternate monitoring methodologies would fail to register the increase in emissions. EPA does not believe these assumptions have a reasonable basis and is using them only to respond to the commenter's concerns regarding accuracy.

continued compliance with the Rule's emissions reduction requirements. Nor does EPA agree that allowing non-CEMS monitoring approaches to be used for purposes of demonstrating compliance with control measures adopted under the NO_x SIP Call is comparable to excusing major sources from requirements to monitor using CEMS for other purposes. The amendments proposed for this action are based on EPA's assessment, specific to this action, that under current circumstances monitoring information from some sources other than part 75 monitoring information can now provide sufficient assurance that the NO_x SIP Call's required emissions reductions will continue to be achieved. Where any source is required to monitor using CEMS for another purpose under regulations other than the NO_x SIP Call regulations, the amendments proposed for this action would not affect those requirements.

Comment: One commenter contended that allowing alternate monitoring requirements will lead to increased emissions. The commenter observed that EPA did not know which specific sources might ultimately be allowed to use alternate monitoring methods. According to the commenter, EPA had suggested in the proposal that the potential for increases in pollution resulting from alternate monitoring requirements is merely uncertain, because EPA would not itself relax the requirements but would leave that decision to the states, and the commenter stated it is arbitrary and capricious for EPA to rely on such a claim of uncertainty to avoid assessing the impacts of increased pollution. The commenter contended that EPA had suggested in the proposal that "systemwide NO_x emissions are low enough that if there are increases in pollution attainment and maintenance [of the NAAQS] might not be threatened." The commenter also discussed ozone pollution and the harms it causes to human health and the environment, citing several EPA documents.

Response: EPA does not dispute the commenter's summary of the harms caused by ozone pollution or the correct observation that EPA does not know which specific sources might ultimately be allowed to use alternate monitoring methods (because states, not EPA, will decide whether to revise their SIPs). Otherwise, EPA disagrees with these comments. Relative to part 75 monitoring approaches, non-part 75 monitoring approaches may be expected to provide less detailed monitoring data and require less rigorous quality

assurance, with a consequently greater possibility that the total NO_x emissions amount reported by a source for a given ozone season might understate or overstate the source's actual total emissions for that ozone season to some degree. However, there is no reason to expect any approved non-part 75 monitoring methodology either to be systematically biased toward understatement of emissions or to create any incentive leading to increased emissions. EPA was clear in the proposal that no changes to emissions or air quality are expected because no changes are being made to the NO_x SIP Call's emissions requirements.³⁷ The commenter effectively equates allowing alternate monitoring methods with relaxing emissions requirements, providing no rationale or evidence to support the contention that in the absence of any change in either emissions requirements or the general requirement to monitor emissions, possible changes in just the allowed methods for emissions monitoring under the NO_x SIP Call will lead to increased emissions. EPA continues to believe it is reasonable to assume that under current circumstances where sources are already complying with the NO_x SIP Call's emissions requirements by substantial margins, substitution of one monitoring method for another monitoring method, in the absence of any change in the Rule's emissions requirements, will not cause sources to change their behavior in a way that would affect emissions levels. Moreover, in the event that a particular state's SIP submission were to include a poorly designed alternate monitoring requirement that could lead to systematic understatement of emissions, the SIP approval process—including notice-and-comment procedures—would provide a further safeguard against the possibility of alternate monitoring requirements insufficient to ensure compliance with the Rule's emissions requirements. The commenter appears to incorrectly assume that the amendment in this action would by itself end all EPA oversight of monitoring requirements for NO_x SIP Call purposes and fails to acknowledge the additional safeguard afforded by the SIP approval process.

The commenter's claims regarding suggestions that EPA purportedly made about the supposed possibility of increased emissions misrepresent the proposal. Contrary to the comments, nowhere in the proposal did EPA indicate "uncertainty" as to whether the proposed amendments would lead to

³⁷ 83 FR at 48761.

increased pollution. Rather, as just discussed, EPA explicitly stated that the proposed amendments are expected to have no impact on emissions or air quality. The fact that states, rather than EPA, will decide whether to revise their SIPs to establish alternate monitoring requirements was cited in the proposal as a basis for uncertainty with regard to the potential amount of reductions in monitoring costs, not as a basis for uncertainty with regard to supposed potential increases in emissions.³⁸ Likewise, nowhere in the proposal did EPA make any suggestion regarding the relationship of supposed potential increases in emissions to the likelihood of attainment or maintenance of any NAAQS. Rather, as an illustration of the magnitude of states' recent margins of compliance with the NO_x SIP Call's emissions reduction requirements, EPA stated only that such compliance would continue to be achieved even if emissions were to increase substantially from current levels, and then proceeded to explain why such increases in emissions in fact are unlikely to occur.³⁹

Comment: One commenter suggested that the proposal did not address relevant differences among the states and source types that could be affected by the proposed monitoring amendment. The commenter stated that the proposal failed to identify which sources affected under the NO_x SIP Call do not participate in any CSAPR trading program. Noting that several NO_x SIP Call states are outside the region covered by the various CSAPR trading programs, the commenter asserted that EPA had failed to explain "why sources in some areas should be allowed to monitor less and pollute more," and that "EPA is thus effectively proposing to end continuous NO_x monitoring for an entire geographic area without discussing the ensuing implications." Noting that the NO_x SIP Call applies to both EGUs and non-EGUs while the CSAPR trading programs generally apply only to EGUs, the commenter further asserted that EPA did not "coherently address the distinction between the *types* of sources" (emphasis in original) covered by the NO_x SIP Call and the CSAPR trading programs. Repeating the contention that allowing alternate monitoring methods will lead to increased emissions, the commenter suggested that EPA should have evaluated the impacts on regional ozone transport problems of allowing alternate monitoring methods for some states and source types but not others.

³⁸ 83 FR at 48761.

³⁹ 83 FR at 48757 & nn.38–39.

Response: EPA disagrees with these comments. Contrary to the commenter's suggestion, the proposal explicitly discussed differences among NO_x SIP Call states concerning whether each state's EGUs are covered by a CSAPR trading program, noting that EGUs in Connecticut, Delaware, Massachusetts, Rhode Island, and the District of Columbia do not participate in any CSAPR trading programs.⁴⁰ Likewise, the commenter's assertion that the proposed monitoring amendment would "end continuous NO_x monitoring for an entire geographic region" is directly contradicted by information in the proposal: First, by the explanation that most of the EGUs in the five non-CSAPR states will remain subject to part 75 monitoring requirements under the Acid Rain Program;⁴¹ second, by the explanation that most of the emissions from the set of large EGUs and large non-EGU boilers and turbines affected under the NO_x SIP Call come from large EGUs that would continue to monitor their emissions according to part 75 under either the Acid Rain Program or a CSAPR trading program;⁴² and third, by the data showing quantitatively that out of the total set of sources subject to the NO_x SIP Call in the five non-CSAPR states, the subset of sources that would continue to be subject to part 75 monitoring requirements under other programs has produced most of the recent emissions.⁴³

Contrary to the commenter's assertion that the proposal failed to address the distinction between EGUs and non-EGUs, the proposal explicitly discussed the fact that unlike most EGUs, most non-EGUs affected under the NO_x SIP Call do not participate in a CSAPR trading program or face part 75 monitoring requirements under other programs.⁴⁴ The proposal also explicitly noted that although some of the sources potentially affected by the proposed monitoring amendment are large EGUs not subject to the Acid Rain Program or a CSAPR trading program, most of the potentially affected sources are large non-EGU boilers and turbines.⁴⁵ The proposal presented recent state-specific

⁴⁰ 83 FR at 48756 & nn.26–27. EPA notes that there are currently no large EGUs in the District of Columbia.

⁴¹ 83 FR at 48756 & n.27.

⁴² 83 FR at 48758 & n.40.

⁴³ See 83 FR at 48758 (Table 1) (also reproduced as Table 1 in section II.B. of this document). The sum of the emissions shown in Table 1 for the sources that would continue to be subject to part 75 monitoring in the five non-CSAPR states is 1,631 tons. The sum of the emissions shown for the sources potentially affected by the proposed amendment in these states is 654 tons.

⁴⁴ 83 FR at 48751–52, 48755–56 & n.23.

⁴⁵ 83 FR at 48752.

emissions data broken out according to whether the emissions came from sources that would continue to be subject to part 75 requirements under other programs or instead came from sources potentially affected by the proposed amendment.⁴⁶ The proposal did not further break out the total recent emissions from potentially affected sources into the respective portions from EGUs and non-EGUs because EPA did not see any relevance in whether the NO_x emissions that might be monitored for NO_x SIP Call purposes using methods other than part 75 come from EGUs or from non-EGUs. The commenter has not suggested any reasons why further subcategorization of the emissions information provided in the proposal might be relevant to an evaluation of the proposed monitoring amendment. Nevertheless, to address the comment, EPA notes that large non-EGU boilers and turbines were collectively responsible for 14,860 tons of the total 15,084 tons of seasonal NO_x emissions shown in Table 1 for all units potentially affected by the proposed monitoring amendment, or 98.5% of the total, while large EGUs not required to monitor according to part 75 under the Acid Rain Program or a CSAPR trading program were collectively responsible for 224 tons, or 1.5% of the total.⁴⁷

The comments suggesting that EPA should have evaluated the impacts on regional ozone transport problems of allowing alternate monitoring methods for some states and source types but not others reflect the commenter's unsupported assumption that allowing alternate monitoring methods is equivalent to relaxing emissions requirements. EPA has already rebutted the commenter's assumption in response to a previous comment. Because there is no reason to expect any increase in emissions from the proposed monitoring amendment, there is no reason to evaluate any impacts on regional ozone transport problems of any supposed potential increase in emissions.

Comment: One commenter stated that EPA has not "identif[ied] any *need* to weaken emission monitoring requirements" (emphasis in original), has not identified specific complaints

⁴⁶ 83 FR at 48758 (Table 1).

⁴⁷ The potentially affected large EGUs are combustion turbines located in non-CSAPR states that serve generators larger than 25 MW and are exempt from the Acid Rain Program because they commenced commercial operation before November 15, 1990, and meet the definition of a "simple combustion turbine" in 40 CFR 72.2. There are currently 31 such units, all located in Connecticut, Delaware, or Massachusetts. The individual units are identified in the spreadsheet referenced in note 54 *infra*, available in the docket for this action.

from sources regarding the costs of operating monitoring equipment that has already been installed, and has not sufficiently discussed possible monitoring methodologies or compared their costs. The commenter also stated that allowing alternate monitoring requirements would unfairly advantage new sources over existing sources because the new sources, unlike existing sources, would be allowed “to both use cheaper, less effective monitoring systems and to get away with emitting more NO_x” than existing sources.

Response: EPA disagrees with these comments. In the proposal, EPA discussed the opportunity to reduce monitoring costs under the NO_x SIP Call for some sources while continuing to ensure compliance with the Rule’s emissions reduction requirements.⁴⁸ By definition, a regulatory initiative that reduces overall costs while holding overall benefits constant produces positive net benefits. The commenter has not offered any legal basis or policy rationale supporting the notion that EPA should decline to pursue a regulatory initiative intended to produce positive net benefits simply because the net benefits happen to take the form of a reduction in sources’ monitoring costs.

The commenter’s suggestion that EPA has presented insufficient evidence to support the existence of monitoring cost reduction opportunities is belied by the information in the proposal, which described the various monitoring methodologies available under part 75 and qualitatively discussed the cost reductions that could be available if the sources using each of those methodologies were to switch to alternate monitoring methodologies.⁴⁹ Moreover, all of the comments received on the proposal from source owners and industry associations, as well as most of the comments received from states, agreed that the proposed amendment would make monitoring cost reductions possible for sources in states that choose to revise their SIPs.⁵⁰ The commenter asserted that sources had no reason to complain of monitoring costs because they had already installed the necessary CEMS equipment, but as EPA explained in response to a previous comment, this assessment is incorrect as to new sources, because new sources would not yet have installed the CEMS equipment,

and materially incomplete as to all sources, because CEMS-related costs include not only equipment installation costs but also ongoing operating costs. EPA sees no reason why, in the absence of any contrary information, more evidence is needed to demonstrate the existence of opportunities for monitoring cost reductions than was already presented in the proposal, as further supported by comments.

With respect to quantification of the potential reductions in monitoring costs, EPA explained in the proposal that because states, not EPA, would decide whether to revise the monitoring requirements in their SIPs and because EPA lacked complete information on the remaining monitoring requirements that the sources would face, it was not possible to predict the amount of monitoring cost reductions that could occur following finalization of the proposed monitoring amendment.⁵¹ EPA still lacks information on the remaining monitoring requirements that sources will face but received comments indicating some likelihood that at least six states would revise their SIPs following finalization of the proposed monitoring amendment. The states’ comments make it possible to estimate a potential range of monitoring cost reductions that could occur if these states were to adopt some of the changes in monitoring requirements that EPA considers most likely. EPA’s estimates are provided in section V of this document.

Finally, the commenter’s suggestion that the proposed monitoring amendment would unfairly advantage new sources over existing sources lacks any support. The NO_x SIP Call’s current requirements for part 75 monitoring apply to both existing and new sources, and upon finalization of the proposed monitoring amendment, states’ flexibility to establish alternate monitoring requirements will likewise apply to both existing and new sources. Commenters have not suggested any reason to believe that states will choose to exercise this new flexibility in a manner that discriminates among their existing and new sources in terms of the prospective monitoring requirements established in their SIPs, and if the commenter is suggesting that EPA should require new sources to incur certain capital expenditures in the future simply because existing sources incurred those same capital expenditures in the past, EPA disagrees. Further, the commenter’s assertion that the monitoring amendment will allow new sources to “get away with emitting

more NO_x” again rests on the commenter’s unsupported assumption that allowing alternate monitoring methods is equivalent to relaxing emissions requirements. EPA has already rebutted the commenter’s assumption in response to a previous comment. EPA also reiterates that the proposed monitoring amendment would not change any other emissions or monitoring requirements applicable to either existing or new sources under regulations other than the NO_x SIP Call, including requirements that may be more stringent for new sources than existing sources.

Comment: One commenter discussed the superiority of CEMS methodologies compared to non-CEMS monitoring methodologies in terms of the timeliness and reliability or accuracy of the emissions data collected, particularly with respect to NO_x emissions, and cited various EPA documents in support. The commenter stated that EPA “should be enhancing the use of CEMS in emissions measurements” instead of allowing monitoring flexibility. In particular, the commenter stated that the continued use of CEMS is necessary to ensure compliance with the Chesapeake Bay Total Maximum Daily Load (TMDL) for nitrogen established under the Clean Water Act. In support of this comment, the commenter summarized the role of atmospheric deposition as a contributor of nitrogen to Chesapeake Bay, citing studies by EPA and others. The commenter also noted that the plan for achieving the TMDL includes commitments from EPA to reduce atmospheric deposition through implementation of rules addressing CAA requirements, including the NO_x SIP Call, and stated that EPA must maintain or strengthen air regulations in order to meet its commitments. The commenter stated that without accurate monitoring, states and EPA “will not know whether the reductions necessary to attain the Bay TMDL goals by 2025 are actually being met.”

Response: EPA agrees that CEMS methodologies are often the preferred monitoring approaches for ensuring compliance with particular emissions requirements but disagrees that the acknowledged superiority of CEMS methodologies for some purposes should foreclose the possibility of allowing monitoring flexibility for NO_x SIP Call purposes where other monitoring methods would be sufficient to ensure continued achievement of the Rule’s emissions reduction requirements. Likewise, EPA does not dispute the commenter’s summary regarding the Chesapeake Bay TMDL

⁴⁸ 83 FR at 48761–62.

⁴⁹ 83 FR at 48761 & nn.53–54.

⁵⁰ See comments from Indiana, Michigan, North Carolina, Ohio, South Carolina, Alcoa, Citizens Energy, Council of Industrial Boiler Owners, Illinois Environmental Regulatory Group, Ohio Manufacturers Association, Virginia Manufacturers Association, and West Virginia Manufacturers Association, available in the docket for this action.

⁵¹ 83 FR at 48761.

and EPA's reliance on the NO_x SIP Call's emissions reductions to reduce atmospheric deposition contributing nitrogen to the Bay but disagrees that those facts suggest that compliance with the Rule's emissions reduction requirements must be determined using any particular monitoring approach. As discussed in response to a previous comment, the NO_x SIP Call's existing monitoring requirements were established to provide monitoring information sufficient to ensure compliance with the control measures adopted to achieve the Rule's required emissions reductions, and monitoring requirements to ensure compliance with other emissions requirements are established in other regulations. Comments concerning whether the NO_x SIP Call's existing emissions reductions requirements are sufficiently stringent to address other environmental objectives, including achievement of the Chesapeake Bay TMDL, are outside the scope of the proposal. EPA did not propose to substantively alter any regulatory requirements other than the NO_x SIP Call's monitoring requirements.

Comment: One commenter supported a narrower amendment to the NO_x SIP Call's monitoring requirements than EPA proposed. Specifically, the commenter supported an amendment that would allow states to eliminate the requirements for reporting emissions data to EPA under part 75 but would not allow the use of substantively different monitoring methodologies for collecting emissions data. The commenter objected to allowing sources that currently monitor emissions using CEMS to use other monitoring methodologies because, unlike CEMS methodologies, non-CEMS methodologies do not allow for accurate and timely determinations of compliance with or violations of short-term emission limits. The commenter also expressed the expectation that if the proposed amendment to emissions monitoring requirements is finalized, some states would be required to revise their SIPs to establish less stringent monitoring requirements because of provisions in state law barring the states from imposing requirements on sources that exceed minimum Federal requirements.

Response: The comment expressing concern that non-CEMS methodologies are less useful than CEMS methodologies for determining compliance with emissions requirements other than the NO_x SIP Call's emissions requirements is outside the scope of the proposal. As discussed in response to a previous comment, the NO_x SIP Call's existing monitoring

requirements were established to provide monitoring information sufficient to ensure compliance with the control measures adopted to achieve the Rule's required emissions reductions, and monitoring requirements to ensure compliance with other emissions requirements are established in other regulations. The NO_x SIP Call does not require states to impose short-term emissions limits on their sources, and EPA did not propose to substantively alter any regulatory requirements other than the NO_x SIP Call's monitoring requirements.

The comment suggesting that some NO_x SIP Call states would be required under state law to revise their SIPs if the proposed monitoring amendment is finalized has no bearing on this action. EPA's proper focus in this action is whether the proposed amendment to allow alternate monitoring requirements in SIPs is appropriate under the CAA. Questions of whether and how state law provisions might affect the decisions of individual states to adopt alternate monitoring requirements allowed under the amendment are outside EPA's purview.

Comment: One commenter stated that allowing sources that currently monitor emissions for NO_x SIP Call purposes with CEMS methodologies to instead monitor their emissions with non-CEMS methodologies would result in a loss of data resolution that would make it more difficult to understand the impacts of the sources' emissions on air quality in other states. The commenter stated that, with less detailed emissions data, it would be more difficult for states to work together to develop regionally consistent approaches for addressing good neighbor obligations with respect to the 2015 ozone NAAQS. The commenter also requested that EPA identify the specific units whose monitoring requirements could potentially be altered by states if the proposed monitoring amendment is finalized, as well as the locations of the units.

Response: EPA disagrees that allowing the use of alternate monitoring requirements for NO_x SIP Call purposes would materially impact the ability of states to work together to address their good neighbor obligations with respect to the 2015 ozone NAAQS in a regionally consistent manner. As discussed in section II.B. of this document, if the proposed amendment is finalized, over 90% of the emissions from the set of NO_x SIP Call large EGUs and large non-EGU boilers and turbines would still be monitored according to part 75 under other regulations if the relative proportions shown for 2017 in

Table 1 continue into the future. In addition, the potentially affected sources in states that choose to revise their SIPs would still need to provide emissions monitoring information for each ozone season sufficient for the state to demonstrate compliance with the Rule's emissions reduction requirements. The commenter has not explained the purpose for which the enhanced data resolution provided by part 75 monitoring is desired. In any event, EPA notes that projected hourly emissions data for use in air quality modeling could be prepared based on the intra-year time patterns in the extensive historical emissions data reported by the sources for periods while the sources have been subject to part 75, because those data would remain available even if hourly emissions data are no longer reported in the future for some of these sources. As indicated in Table 1, the total amount of recent seasonal NO_x emissions from the units that could potentially switch from part 75 monitoring approaches to non-part 75 monitoring approaches was approximately 15,000 tons during the 5-month ozone season, which by extrapolation suggests possible annual emissions of roughly 36,000 tons. By comparison, the most recent National Emissions Inventory (for 2014) indicates that for the set of NO_x SIP Call states, the total amount of annual NO_x emissions from all types of stationary sources—that is, not just the large EGUs and large non-EGU boilers and turbines currently subject to part 75 monitoring requirements under the NO_x SIP Call—was over 2,000,000 tons, and the total amount of annual NO_x emissions from all stationary and mobile sources was over 5,000,000 tons.⁵² Thus, the NO_x SIP Call units potentially affected by the proposed amendment appear to be responsible for roughly 2% of the total stationary source emissions and less than 1% of the total stationary and mobile source emissions from NO_x SIP Call states. Given the small percentages of the relevant overall emissions inventory represented by the large non-

⁵² See state_tier1_caps.xlsx, available at <https://www.epa.gov/air-emissions-inventories/air-pollutant-emissions-trends-data> (follow the link for State Average Annual Emissions Trend) and in the docket for this action. The total amount of stationary and mobile source emissions can be obtained from the spreadsheet by filtering column B to exclude all states except the 21 NO_x SIP Call jurisdictions, filtering column D to exclude "prescribed fires" and "wildfires," filtering column E to exclude all pollutants except NO_x, and then summing the 2014 emissions inventory amounts in column Y for all remaining line items shown. The total amount of stationary source emissions can be obtained in the same way after further filtering column D to exclude "highway vehicles" and "off-highway."

EGU boilers and turbines potentially affected by the monitoring amendment proposed for this action, EPA expects that air quality modeling results and analyses of interstate ozone transport would not be materially affected by differences in the intra-year patterns of the projected hourly emissions data for these sources.

With respect to the commenter's request for the identities and locations of units potentially affected by the proposed monitoring amendment—in other words, large non-EGU boilers and turbines as well as large EGUs that are subject to the NO_x SIP Call but not the Acid Rain Program or a CSAPR trading program—EPA notes that the requested information is already publicly available in the database of reported part 75 emissions data accessible through the Agency's website.⁵³ The database identifies each individual unit that has reported according to part 75 and provides the unit's state, county, latitude, and longitude. The database also indicates the regulatory programs for which the data have been reported, using the code "SIPNO_x" to indicate where a unit has reported seasonal NO_x mass emissions data for purposes of the NO_x SIP Call but not for purposes of the seasonal NO_x trading programs established under CAIR, the original CSAPR, and the CSAPR Update. For the convenience of the commenter and others who might be similarly interested, EPA has extracted this information from the database into a spreadsheet which has been added to the docket for this action.⁵⁴

B. Emissions Reduction Requirements

Comment: One commenter stated it had no objection to the proposed revisions to the provisions expressing the NO_x SIP Call's emissions reduction requirements to the extent that the revisions do not substantively adjust the states' budgets.

Response: EPA thanks the commenter for this comment.

Comment: One commenter agreed with EPA's objective of clarifying and simplifying the provisions describing

the NO_x SIP Call's emissions reduction requirements but offered suggestions for doing so in ways that differed in some respects from the proposed amendments. First, the commenter suggested replacing the terms "budget" and "NO_x budget" with a single term such as "NO_x ozone season budget" both for consistency and to clarify that the budgets apply to seasonal rather than annual emissions. The commenter also suggested that EPA specify that the final budgets apply starting in 2007 and define the term "ozone season" in the regulations. Finally, the commenter suggested that all references to the Phase I budgets could be removed from the regulations because these budgets no longer have any substantive effect.

Response: EPA agrees with most of the commenter's suggestions. In particular, EPA agrees that the regulations would be clarified by consistently using the term "NO_x ozone season budget" throughout § 202F.51.121, specifying that the final budgets apply starting in 2007, and documenting the definition used for the term "ozone season." Extending the commenter's suggestions, EPA believes the regulations would be further clarified by indicating that other emissions amounts described in the regulations are also ozone season emissions and documenting the definition used for the term "nitrogen oxides" or "NO_x." The specific changes from proposal that are being adopted in response to the commenter's suggestion are described in section IV of this document.

Although EPA agrees with the commenter's observation that the Phase I budgets no longer have any substantive regulatory effect, EPA disagrees with the suggestion to remove all references to these budgets from the regulations. All but one of the states subject to the NO_x SIP Call as implemented was required to adopt a SIP revision designed to comply with a Phase I budget, and some of the control measures adopted in those SIP revisions (such as measures to reduce emissions from cement kilns or stationary internal combustion engines) continue to be implemented as approved SIP provisions. While these control measures now address requirements to comply with the final budgets rather than the Phase I budgets, EPA considers it reasonable to retain the Phase I budgets in the regulations (and to specify their years of applicability) to document and facilitate understanding of both the state regulatory actions that originally adopted the measures and the EPA actions that approved the measures into the SIPs.

C. Baseline Emissions Inventory Table

Comment: One commenter objected to the proposed removal of the baseline emissions inventory table in § 51.121(g)(2)(ii), requesting that the table be retained (with any necessary updates) for use in implementing the provisions at § 51.121(f)(2) that require enforceable limits on seasonal NO_x mass emissions from large EGUs and large non-EGU boilers and turbines. The text of § 51.121(f)(2)(ii), which EPA has not proposed to substantively amend, contains the phrase "the total NO_x emissions projected for such sources by the State pursuant to paragraph (g) of this section." The commenter interprets this phrase as referring to amounts of emissions that the commenter believes either are or should be shown in the baseline emissions inventory table in § 51.121(g)(2)(ii).

Response: EPA disagrees with this comment, which appears to arise from a misinterpretation of the reference to "paragraph (g)" in § 51.121(f)(2)(ii). The various subparagraphs of § 51.121(g) describe or implicate two different types of projected 2007 emissions amounts. The first type is the baseline *pre-control emissions amounts projected by EPA* to represent emissions absent the reductions required by the NO_x SIP Call. The second type is the *post-control emissions amounts projected by states* to represent emissions following implementation of the control measures adopted in their SIPs. The table in § 51.121(g)(2)(ii) that EPA proposed to delete was intended to contain⁵⁵ the first type of emissions amount—specifically, the pre-control emissions amounts projected by EPA for all sources⁵⁶ in all sectors. In contrast, the phrase "the total NO_x emissions projected for such sources⁵⁷ by the State pursuant to paragraph (g) of this section" in § 51.121(f)(2)(ii) refers to the second type of emissions amount—specifically, the post-control emissions amounts projected by states for their

⁵⁵ As noted in the proposal, because of an error setting out the regulatory text for certain NO_x SIP Call amendments finalized in 2000, the current table incorrectly shows the potential *post-control* emissions amounts that EPA projected for use in setting the states' amended statewide emissions budgets rather than the amended *pre-control* emissions amounts as intended. See 83 FR at 48760 & n.48.

⁵⁶ The "EGU" and "non-EGU" columns of the table in § 51.121(g)(2)(ii)—both the original version showing EPA's projections of pre-control emissions and the incorrectly amended version showing EPA's projections of post-control emissions—include emissions amounts for *all* EGU and non-EGU point sources, not just large EGUs and large non-EGU boilers and turbines.

⁵⁷ The term "such sources" in § 51.121(f)(2)(ii) refers to the large EGUs and large non-EGU boilers and turbines identified in § 51.121(f)(2).

⁵³ See <https://ampd.epa.gov/ampd>.

⁵⁴ See Existing Units Potentially Affected by the NO_x SIP Call Monitoring Amendment (December 2018), available in the docket for this action. EPA acknowledges that the database does not differentiate between two sets of units for which the SIPNO_x code is used: (1) Large EGUs and large non-EGU boilers and turbines that are described in § 51.121(i)(4) and are potentially affected by the amendments in this action, and (2) other units that are not described in § 51.121(i)(4) and therefore are not affected by the amendments in this action, but that nevertheless monitor according to part 75 for NO_x SIP Call purposes pursuant to requirements in their states' SIPs. The spreadsheet in the docket includes only units in the first set.

large EGUs and large non-EGU boilers and turbines pursuant to § 51.121(g)(2)(iii) and used in the demonstrations required under § 51.121(g)(1). The fact that the phrase in § 51.121(f)(2)(ii) refers to the second type of emissions amount is evident for two reasons: first, the relevant amounts are projected “by the State” and not by EPA, and second, the purpose of § 51.121(f)(2)(ii) is to require enforceable mechanisms to ensure achievement of post-control emissions levels rather than pre-control emissions levels. Thus, the commenter’s objection to the removal of the baseline emissions inventory table in § 51.121(g)(2)(ii) is misplaced.

D. Post-NBTP Transition Requirements

Comment: Without expressing any objection to the proposed clarifying amendments to the post-NBTP transition provision at § 51.121(r)(2), one commenter requested confirmation that EPA does not intend the requirements of the provision as revised to apply with regard to EGUs that participate in the CSAPR Update trading program under the regulations set forth at 40 CFR part 97, subpart EEEEE,⁵⁸ pursuant to an approved SIP revision.

Response: The proposed clarifying revisions to the NO_x SIP Call post-NBTP transition provision at § 51.121(r)(2) add a cross-reference to 40 CFR 52.38(b)(10)(ii), which is an existing provision of the CSAPR regulations governing SIP approvals. Under this provision of the CSAPR regulations, where a state has an approved full CSAPR SIP revision requiring certain units in the state to participate in a state seasonal NO_x trading program integrated with the Federal CSAPR Update seasonal NO_x trading program established under 40 CFR part 97, subpart EEEEE, the NO_x SIP Call’s post-NBTP transition requirements under § 51.121(r)(2) are satisfied with regard to any of the state’s large EGUs or large non-EGU boilers and turbines participating in that state trading program. As explained in the proposal,⁵⁹ the addition of the cross reference in § 51.121(r)(2) is not a substantive change because the approval of a full CSAPR SIP would produce this result even without a cross-reference,

⁵⁸ The commenter similarly requests confirmation with regard to EGUs that participate in the original CSAPR seasonal NO_x trading program under the regulations set forth at 40 CFR part 97, subpart BBBBB, but this request is moot because there are no states subject to the NO_x SIP Call with EGUs that continue to participate in the original CSAPR seasonal NO_x trading program.

⁵⁹ 83 FR at 48760–61.

but the cross-reference clarifies the NO_x SIP Call regulations.

Comment: Without expressing any objection to the proposed clarifying amendments to the post-NBTP transition provision at § 51.121(r)(2), one commenter requested that EPA further clarify the Rule’s post-NBTP transition requirements by adding a new regulatory provision indicating that where a state does not require its large non-EGU boilers and turbines to participate in the CSAPR Update trading program, the state must impose a cap on these units’ collective seasonal NO_x mass emissions equivalent to the portion of the statewide emissions budget assigned to the units under the NBTP. The commenter requested that EPA add the new provision to § 51.121(f)(2), the provision establishing the requirement for enforceable limits on seasonal NO_x mass emissions from large EGUs and large non-EGU boilers and turbines.

Response: This comment is outside the scope of the proposal. A requirement for a cap on the collective NO_x mass emissions of each state’s large non-EGU boilers and turbines does not appear in the existing regulatory text at § 51.121 because, as discussed in the proposal and summarized in section II.A. of this document, the NO_x SIP Call did not require states to control any specific types of sources or to adopt any specific types of control measures. Even where states chose to adopt control measures for large EGUs and large non-EGU boilers and turbines, thereby triggering requirements for enforceable limits on seasonal NO_x mass emissions from those sources, the regulations provided several permissible alternative forms for such limits.⁶⁰ Similarly, the post-NBTP provision at § 51.121(r)(2) does not prescribe what types of sources states must control to satisfy the post-NBTP transition requirements or what types of control measures states must employ, but simply requires each state with units affected under the NO_x SIP Call that do not participate in a successor trading program to the NBTP to “revise the SIP to adopt control measures that satisfy the same portion of the State’s emission reduction requirements under [§ 51.121] as the State projected [the NBTP] would satisfy.” The commenter’s requested amendment would codify as a Federal requirement what may be the simplest way to satisfy the Rule’s post-NBTP transition requirements, but it would also reduce states’ flexibility by eliminating options to satisfy the post-NBTP transition requirements in other

ways, and the reduction in flexibility would represent a substantive change to the existing regulations. EPA did not propose substantive changes to the post-NBTP transition provision and made clear that the only provision of the NO_x SIP Call regulations being reopened for substantive comment was the provision concerning part 75 monitoring requirements for large EGUs and large non-EGU boilers and turbines.

Comment: Without expressing any objection to the proposed clarifying amendments to the post-NBTP transition provision at § 51.121(r)(2), two commenters requested that EPA identify in the regulations the portion of each state’s statewide emissions budget assigned to the state’s large non-EGU boilers and turbines by adding this information either as a new table or as an additional column in the table of statewide budgets in § 51.121(e)(2)(i). The commenters suggested that inclusion of these amounts in the regulations could help states address their post-NBTP transition requirements. One of the commenters accompanied this comment with a request that EPA confirm “it is the EPA’s intent that all required SIP elements for the NO_x SIP Call are contained under § 51.121.”

Response: These comments are outside the scope of the proposal. The portions of the statewide emissions budgets assigned to various categories of sources do not appear in the existing regulatory text at § 51.121 because, as discussed in the proposal and summarized in section II.A. of this document, the NO_x SIP Call did not establish required post-control emissions amounts for any specific categories of sources. Instead, each state determined what portions of its post-control statewide emissions budget to assign to the specific categories of sources in the state, and the assignments were approved in separate SIP approval actions for each state.⁶¹ Adopting the state-determined, sector-specific assignments as Federal requirements at this time would be a substantive change to the existing regulations because it would reduce states’ flexibility to revise their previous choices and select other ways of addressing their post-NBTP transition requirements. EPA did not propose substantive changes to the post-NBTP transition provision and made clear that the only provision of the NO_x SIP Call regulations being reopened for

⁶¹ See, e.g., 67 FR 68542 (Nov. 12, 2002) (proposing to approve Virginia SIP provisions assigning portions of the statewide emissions budget to large EGUs and large non-EGU boilers and turbines); see also 68 FR 40520 (July 8, 2003) (finalizing approval).

⁶⁰ See 40 CFR 51.121(f)(2)(i)(A)–(C).

substantive comment was the provision concerning part 75 monitoring requirements for large EGUs and large non-EGU boilers and turbines.

Comment: Without expressing any objection to the proposed clarifying revisions to the post-NBTP transition provision at § 51.121(r)(2), one commenter noted the proposed insertion of the words “or included” into the phrase “a State whose SIP . . . includes *or included* an emission trading program approved under [§ 51.121]” and indicated that the commenter’s interpretation of the revised language is that “no action is necessary to affirm [the commenter’s] obligation to maintain NO_x SIP Call emissions control.” The commenter requested that EPA clarify in this final action if the state’s interpretation is not correct.

Response: EPA considers this comment to be outside the scope of the proposal. As discussed in the proposal, the reason for inserting the words “or included” in § 51.121(r)(2) was to eliminate any possible mistaken inference that a state’s obligation to maintain NO_x SIP Call emission controls might be contingent on whether its SIP currently includes trading program provisions and to reinforce that the Rule’s emissions reductions are permanent and enforceable.⁶² EPA does not consider this to be a substantive change to the regulations.⁶³ While the commenter contends that its request for clarification about the need for any further action regarding its SIP arises from the proposed insertion, the commenter has not explained how, if at all, its interpretation of the post-NBTP transition requirements might have been influenced by the proposed insertion, and there is no indication that the commenter’s interpretation has changed from its interpretation before issuance of the proposal.⁶⁴ Given the lack of any

apparent connection between the proposed revision and the commenter’s request for clarification, EPA interprets the comment as a request for a determination concerning the commenter’s SIP that is outside the scope of the proposal. For this action, EPA did not propose to make any determinations regarding whether any further action is or is not necessary to address any specific state’s post-NBTP transition requirements. Accordingly, EPA is not making any such state-specific determinations in this final action, either through express statements or otherwise.

IV. Final Action

For the reasons discussed in the proposal, as supplemented by the discussion in this document, EPA is finalizing amendments to the NO_x SIP Call regulations at 40 CFR 51.121 and 51.122 and amendments to associated cross-references in the CSAPR regulations at 40 CFR 52.38. In place of the current requirement for states to include provisions in their SIPs under which certain emissions sources must monitor their seasonal NO_x mass emissions according to 40 CFR part 75, the amended regulations will allow states to include alternate forms of monitoring requirements in their SIPs for NO_x SIP Call purposes. Other amendments remove obsolete provisions and clarify the remaining regulations but do not substantively alter any current regulatory requirements.

Descriptions of the individual proposed amendments are provided in sections II.B. and II.C. of this document and further discussion is provided in the proposal. EPA is finalizing the amendments generally as proposed with the following further revisions, all of which EPA considers to be non-substantive changes from the proposal:

- To improve clarity, the final regulatory text of § 51.121(i)(4) is being revised from the proposed amended text in two ways. First, the final revisions

consistent with the purpose of the proposed clarification. The comment does not set forth the commenter’s interpretation of § 51.121(r)(2) prior to this action, but if the commenter is contending that, prior to this action, it understood the requirement to adopt replacement control measures applied to it and that, now, the insertion of the words “or included” would cause it to believe the requirement no longer applies, that contention would be illogical. If the commenter is contending that the insertion of the words “or included” would alter its interpretation concerning the nature of the replacement control measures that can satisfy the post-NBTP transition requirements, that contention would also be illogical because with or without the added words, the post-NBTP transition provision does not address the nature of replacement control measures that states may or must adopt.

indicate that where a state chooses to require part 75 monitoring for some or all large EGUs and large non-EGU boilers and turbines for NO_x SIP Call purposes, the “full set of” monitoring, recordkeeping, and reporting provisions in subpart H of part 75 must be required. The added words clarify that the amendments do not authorize states to create partial versions of the part 75 regulations that EPA would then have to administer on a state-specific basis. Second, the final revisions remove a phrase indicating that the amended text does not create any exception to any part 75 requirements that may apply to a source under another legal authority. The removed phrase is unnecessary because, on its face, the amended text merely gives states an option to require part 75 monitoring for NO_x SIP Call purposes and does not create or authorize any exceptions to any requirements that may apply to any source under any legal authority. EPA believes the text of the final amendment is clearer and does not differ substantively from the text of the amendment as proposed.

- As discussed in EPA’s response to comments in section III.B. of this document, the regulatory text expressing the NO_x SIP Call’s emissions reduction requirements is being further clarified by using more precise terminology and documenting the definitions that already apply for two important terms. The final revisions (1) use the standard term “NO_x ozone season budget” consistently, (2) specify emissions “during the ozone season” where appropriate, (3) indicate the respective years of applicability for the Phase I and final emissions budgets, and (4) add definitions of the terms “nitrogen oxides or NO_x” and “ozone season” to § 51.121. The term “nitrogen oxides or NO_x” is defined as “all oxides of nitrogen except nitrous oxide (N₂O), reported on an equivalent molecular weight basis as nitrogen dioxide (NO₂).” The term “ozone season” is defined as “the period from May 1 through September 30 of a year.” The added definitions do not alter any regulatory requirements because they are substantively identical to the definitions that already explicitly apply for purposes of § 51.122 and that have historically been used in practice for purposes of § 51.121 as well.⁶⁵ The additional revisions affect the regulatory text at § 51.121(a)(3), (b)(1)(i) and (iii), (e)(1), (e)(2)(i) and (ii), (f) introductory

⁶⁵ See 40 CFR 51.122(a); see also *id.* § 51.50 (definition of “nitrogen oxides”).

⁶² 83 FR at 48760–61.

⁶³ EPA notes that the continued applicability of the post-NBTP transition requirements following the replacement of the CAIR seasonal NO_x trading program by the original CSAPR seasonal NO_x trading program was discussed in the preamble for the CSAPR final rule. 76 FR at 48325.

⁶⁴ Like several other states, when the NBTP was discontinued, the commenter elected to include its large non-EGU boilers and turbines in the replacement seasonal NO_x trading program established under CAIR, and EPA subsequently approved the removal of the NBTP from its SIP. The commenter is thus a state whose SIP “included” a trading program approved under § 51.121. The commenter clearly is not contending that, prior to this action, it believed the requirement to adopt control measures replacing the NBTP no longer applied to it because its SIP no longer “includes” the NBTP and that, now, the insertion of the words “or included” would cause it to understand the requirement once again applies, although such a contention would have internal logic and would be

text, (f)(2) introductory text, (f)(2)(i)(C), (g)(1), (g)(2)(i) and (iii), (i), and (j)(1).

- Instead of being removed as proposed, the provision at § 51.121(d)(2) concerning procedural requirements for SIP submissions is being revised to incorporate the updated procedural requirements for SIP submissions at 40 CFR 51.103. In the proposal,⁶⁶ EPA stated the intent for the completeness and format requirements in § 51.103 to apply to any future SIP submissions under § 51.121. The final revision makes such applicability explicit and is consistent with several other provisions of § 51.121 that similarly incorporate requirements set forth in other sections of 40 CFR part 51.

- An additional editorial revision is being made to the text of § 51.121(k)(2). The revision clarifies the regulations by standardizing citation formats.

A redline-strikeout document showing the text of 40 CFR 51.121 and 51.122 with the amendments adopted in this action, including all the proposed amendments to the NO_x SIP Call regulations with the further revisions just described, is available in the docket for this action.

The amendments finalized in this action are effective immediately upon publication of the action in the **Federal Register**. This final action is not subject to requirements specifying a minimum period between publication and effectiveness under either Congressional Review Act (CRA) section 801(a)(3), 5 U.S.C. 801(a)(3), or Administrative Procedure Act (APA) section 553(d), 5 U.S.C. 553(d).

CRA section 801(a)(3) generally prohibits a “major rule” from taking effect earlier than 60 days after the rule is published in the **Federal Register**. Generally, under CRA section 804(2), 5 U.S.C. 804(2), a major rule is a rule that the Office of Management and Budget (OMB) finds has resulted in or is likely to result in (1) an annual effect on the economy of \$100 million or more, (2) major cost or price increases, or (3) other significant adverse economic effects. This action is not a major rule for CRA purposes.

As discussed in section VI.M. of this document, EPA is issuing the amendments under CAA section 307(d). This provision does not include requirements governing the effective date of a rule promulgated under it and, accordingly, EPA has discretion in establishing the effective date. While APA section 553(d) generally provides that rules may not take effect earlier than 30 days after they are published in the **Federal Register**, CAA section

307(d)(1) clarifies that “[t]he provisions of [APA] section 553 . . . shall not, except as expressly provided in this section, apply to actions to which this subsection applies.” Thus, APA section 553(d) does not apply to the amendments. Nevertheless, in making this final action effective immediately upon publication, EPA has considered the purposes underlying APA section 553(d). The primary purpose of the prescribed 30-day waiting period is to give affected parties a reasonable time to adjust their behavior and prepare before a final rule takes effect. The amendments made in this action do not impose any new regulatory requirements and therefore do not necessitate time for affected sources to adjust their behavior or otherwise prepare for implementation. Further, APA section 553(d) expressly allows an effective date earlier than 30 days after publication for a rule that “grants or recognizes an exemption or relieves a restriction.” This action relieves an existing restriction and allows EPA to approve SIPs with more flexible monitoring requirements, which in turn could lead to reduced monitoring costs for certain sources. Consequently, making the amendments effective immediately upon publication of the action is consistent with the purposes of APA section 553(d).

V. Impacts of the Amendments

The only amendment being finalized in this action that substantively alters existing regulatory requirements is the amendment allowing states to revise their SIPs, for NO_x SIP Call purposes only, to establish monitoring requirements other than part 75 monitoring requirements. The amendments do not change any of the Rule’s existing regulatory requirements related to statewide emissions budgets or enforceable mass emissions limits for large EGUs and large non-EGU boilers and turbines. Accordingly, EPA expects that the amendments will have no impact on emissions or air quality. However, EPA does expect that the amendment to the Rule’s monitoring requirements will ultimately allow some sources to reduce their monitoring costs because of alternate monitoring requirements established in SIP revisions submitted and approved for their states. Because states, not EPA, will decide whether to revise the monitoring requirements in their SIPs and because EPA lacks complete information on the remaining monitoring requirements that the sources would face, there is considerable uncertainty concerning the amount of monitoring cost reductions

that may be facilitated by this action, and EPA did not present a quantitative estimate of potential monitoring cost reductions in the proposal. For purposes of the final action, based in part on improved information obtained through comments, EPA has estimated a range of potential annual monitoring cost reductions from \$1.2 million to \$3.3 million, with a midpoint estimate of \$2.25 million, as further discussed below. Given the absence of any change in emissions or air quality, there would be no change in the public health and environmental benefits attributable to the NO_x SIP Call’s emissions reduction requirements, and the likely reductions in monitoring costs therefore are expected to constitute positive net benefits from this action.

As of December 2018, EPA’s records indicate that there are approximately 315 existing large EGUs and large non-EGU boilers and turbines in the NO_x SIP Call region that could potentially be affected by the monitoring amendment if all states were to revise their SIPs.⁶⁷ To estimate how many of these potentially affected existing units may ultimately face alternate monitoring requirements made possible by the monitoring amendment in this action, EPA is relying on information obtained from states’ comments. Six states submitted comments expressing support for the proposed monitoring amendment.⁶⁸ While these comments do not in any way obligate the states to submit SIP revisions with alternate monitoring requirements, and additional states that did not submit comments could also choose to submit SIP revisions, EPA believes that the comments provide a reasonable basis for assuming, solely for purposes of developing an estimate of this action’s impacts, that the 102 existing units in these six states will ultimately face alternate monitoring requirements of some kind.⁶⁹ According to the monitoring plans for these units, 34 units use both gas concentration CEMS

⁶⁷ The spreadsheet referenced in note 54 *supra* identifies 317 potentially affected existing units. As noted in section II.B. of this document, in the proposal for this action EPA indicated that there were approximately 310 potentially affected existing units. Several additional units started reporting emissions for NO_x SIP Call purposes in 2018.

⁶⁸ The six states are Indiana, Michigan, North Carolina, Ohio, South Carolina, and West Virginia.

⁶⁹ The 102 units are the existing units identified in the spreadsheet referenced in note 54 *supra* for these six states. While any new units in these states that otherwise would have been required to use CEMS methodologies for NO_x SIP Call purposes could also experience monitoring cost reductions, EPA believes it is reasonable to ignore possible new units in preparing this estimate due to the larger numbers of existing units.

and stack gas flow rate CEMS, 35 units use gas concentration CEMS but not stack gas flow rate CEMS, and 33 units use non-CEMS methodologies. For purposes of estimating potential monitoring cost reductions, EPA has focused on the units currently using CEMS because, as noted in the proposal and in section II.B. of this document, EPA expects that units already using non-CEMS methodologies under part 75 would experience little or no reduction in monitoring costs from alternate monitoring requirements.

To represent the alternate monitoring requirements that the units currently using CEMS could face in a manner that reflects the substantial uncertainty on this issue, EPA has used a range of assumptions. Specifically, to estimate the low end of the range, EPA has assumed that the only change from current requirements is that the 34 units currently using both gas concentration CEMS and stack gas flow rate CEMS will discontinue the use of stack gas flow rate CEMS. EPA considers this assumption to be reasonable for purposes of estimating potential monitoring cost reductions because requirements to use stack gas flow rate CEMS are relatively uncommon in non-part 75 monitoring regulations. EPA also believes the units currently using stack gas flow rate CEMS are more likely than other potentially affected units to continue to be subject to requirements to use gas concentration CEMS because many of these units combust solid fuel and consequently may have triggered emission control requirements and associated emissions monitoring requirements under other regulations. To estimate the high end of the range, EPA has assumed that in addition to the change just described, the 35 units currently using only gas concentration CEMS will switch to a non-CEMS methodology. While it is possible that some of these units may also face continued requirements to use gas concentration CEMS under other regulations, EPA believes the likelihood that these units, none of which combust solid fuel, would be eligible to use non-CEMS methodologies is greater than for the units that currently use both gas concentration CEMS and stack gas flow rate CEMS.

To estimate the monitoring cost reductions associated with the assumed range of changes in monitoring requirements, EPA has used the cost estimates for the various part 75 monitoring methodologies contained in the information collection request (ICR) renewal prepared in conjunction with this action for purposes of the Paperwork Reduction Act, 44 U.S.C.

3501 *et seq.*⁷⁰ Based on the cost estimates in the ICR renewal, EPA has estimated that the potential annual cost reduction from discontinuing the use of stack gas flow rate CEMS—including reductions in labor costs, non-labor operating and maintenance costs (including contractor costs), and annualized capital costs—is approximately \$35,000 per unit, while the analogous potential annual cost reduction from discontinuing the use of gas concentration CEMS is approximately \$60,000 per unit.⁷¹ Multiplying these per-unit amounts by the respective numbers of units yields an estimated range of potential annual monitoring cost reductions from \$1.2 million to \$3.3 million.⁷² The midpoint of this range is a potential reduction in annual monitoring costs of \$2.25 million.

VI. Statutory and Executive Order Reviews

Additional information about these statutes and executive orders can be found at <https://www.epa.gov/laws-regulations/laws-and-executive-orders>.

A. Executive Order 12866: Regulatory Planning and Review, and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to OMB for review.

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is considered an Executive Order 13771 deregulatory action. This final rule provides meaningful burden reduction by allowing states to establish lower-cost monitoring requirements in their SIPs for some sources as alternatives to part 75 monitoring requirements. Because states, not EPA, will decide whether to revise the monitoring requirements in their SIPs and because EPA lacks complete information on the remaining monitoring requirements that the sources would face, there is

⁷⁰ See section VI.C. *infra*.

⁷¹ See Information Collection Request Renewal for the NO_x SIP Call: Supporting Statement (September 2018) at 12 (Table 6–2), available in the docket for this action. The \$35,000 estimate is the rounded difference between the sum of the amounts in the labor, O&M, and annualized capital cost columns on line 6(a) and the sum of the amounts in the same columns on line 6(b). The \$60,000 estimate is the rounded difference from the same calculation performed using the amounts on lines 6(b) and 6(c) instead.

⁷² Calculation of low end of range: 34 units × \$35,000 per unit = \$1.2 million.

Calculation of high end of range: 35 units × \$60,000 per unit + \$1.2 million = \$3.3 million.

considerable uncertainty regarding the amount of monitoring cost reductions that may occur, but EPA has quantified an estimated range in section V of this document. In addition, the proposal's qualitative discussion of the potential monitoring cost reductions⁷³ is summarized in section II.B. of this document.

C. Paperwork Reduction Act

This action does not impose any new information collection burden under the Paperwork Reduction Act. OMB has previously approved the information collection activities contained in the existing regulations and has assigned OMB control number 2060–0445. However, to reflect the amendment allowing states to establish potentially lower-cost monitoring requirements for some sources as alternatives to the current part 75 monitoring requirements, EPA submitted an information collection request (ICR) renewal to OMB in conjunction with the proposal for this action. The ICR document prepared by EPA, which has been assigned EPA ICR number 1857.08, can be found in the docket for this action. None of the comments that EPA received during the public comment period for the proposal addressed the ICR renewal.

Like the current ICR, the ICR renewal reflects the information collection burden and costs associated with part 75 monitoring requirements for sources that are subject to part 75 monitoring requirements under the SIP revisions addressing states' NO_x SIP Call obligations and that are not subject to part 75 monitoring requirements under the Acid Rain Program or a CSAPR trading program. The ICR renewal is generally unchanged from the current ICR except that the renewal reflects projected decreases in the numbers of sources that would perform part 75 monitoring for NO_x SIP Call purposes based on an assumption (made only for purposes of estimating information collection burden and costs for the ICR renewal) that, over the course of the 3-year renewal period, some states will revise their SIPs to replace part 75 monitoring requirements for some sources with lower-cost monitoring requirements. As under the current ICR, all information collected from sources under the ICR renewal will be treated as public information.

Respondents/affected entities: Fossil fuel-fired boilers and stationary combustion turbines that have heat input capacities greater than 250 mmBtu/hr or serve electricity generators

⁷³ 83 FR at 48761–62.

with nameplate capacities greater than 25 MW and that are not subject to part 75 monitoring requirements under another program.

Respondents' obligation to respond: Mandatory if elected by the state (40 CFR 51.121(i)(4) as amended).

Estimated number of respondents: 340 (average over 2019–2021 renewal period).

Frequency of response: Quarterly, occasionally.

Total estimated burden: 131,945 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: \$19,143,004 (per year), includes \$8,256,087 annualized capital or operation & maintenance costs.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9. When OMB approves this ICR renewal, the Agency will announce that approval in the **Federal Register**.

D. Regulatory Flexibility Act

I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act, 5 U.S.C. 601–612. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden, or otherwise has a positive economic effect on the small entities subject to the rule. This action does not directly regulate any entity, but simply allows states to establish potentially lower-cost monitoring requirements for some sources and generally streamlines existing regulations. EPA has therefore concluded that this action will either relieve or have no net regulatory burden for all affected small entities.

E. Unfunded Mandates Reform Act

This action does not contain any unfunded mandate as described in the Unfunded Mandates Reform Act, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local, or tribal governments or the private sector. This action simply allows states to establish potentially lower-cost monitoring requirements for some

sources and generally streamlines existing regulations.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. This action simply allows states to establish potentially lower-cost monitoring requirements for some sources and generally streamlines existing regulations.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. This action simply allows states to establish potentially lower-cost monitoring requirements for some sources and generally streamlines existing regulations. Thus, Executive Order 13175 does not apply to this action.

H. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk. This action simply allows states to establish potentially lower-cost monitoring requirements for some sources and generally streamlines existing regulations.

I. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer Advancement Act

This rulemaking does not involve technical standards.

K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

EPA believes that this action is not subject to Executive Order 12898 because it does not establish an environmental health or safety standard. This action simply allows states to establish potentially lower-cost monitoring requirements for some sources and generally streamlines existing regulations. Consistent with Executive Order 12898 and EPA's environmental justice policies, EPA considered effects on low-income populations, minority populations, and indigenous peoples while developing the original NO_x SIP Call. The process and results of that consideration are described in the Regulatory Impact Analysis for the NO_x SIP Call.

L. Congressional Review Act

This action is subject to the Congressional Review Act, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

M. Determinations Under CAA Section 307(b) and (d)

CAA section 307(b)(1), 42 U.S.C. 7607(b)(1), indicates which United States Courts of Appeals have venue for petitions of review of final actions by EPA. This section provides, in part, that petitions for review must be filed in the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) if (i) the Agency action consists of “nationally applicable regulations promulgated, or final action taken, by the Administrator,” or (ii) the action is locally or regionally applicable, but “such action is based on a determination of nationwide scope or effect and if in taking such action the Administrator finds and publishes that such action is based on such a determination.” This action amends existing regulations that apply to 20 states and the District of Columbia, and thus the action applies to the same 21 jurisdictions. The existing regulations were promulgated to address interstate transport of air pollution across the eastern half of the nation and the resulting emissions reductions have been relied on as a basis for actions redesignating areas in at least 20 states to attainment with one or more NAAQS.

The states affected under the regulations and relying on the resulting emissions reductions are located in multiple EPA Regions and Federal judicial circuits. Previous final actions promulgating and amending the existing regulations were nationally applicable and reviewed in the D.C. Circuit. For these reasons, the Administrator determines that this final action is nationally applicable or, in the alternative, is based on a determination of nationwide scope and effect for purposes of section 307(b)(1). Thus, pursuant to section 307(b), any petitions for review of this final action must be filed in the D.C. Circuit within 60 days from the date this final action is published in the **Federal Register**.

CAA section 307(d), 42 U.S.C. 7607(d), contains rulemaking and judicial review provisions that apply to certain EPA actions under the CAA including, under section 307(d)(1)(V), “such other actions as the Administrator may determine.” In accordance with section 307(d)(1)(V), the Administrator determines that the provisions of section 307(d) apply to this final action. EPA has complied with the procedural requirements of section 307(d) during the course of this rulemaking.

List of Subjects

40 CFR Part 51

Environmental protection, Administrative practice and procedure, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide.

40 CFR Part 52

Environmental protection, Administrative practice and procedure, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide.

Dated: February 26, 2019.

Andrew R. Wheeler,
Acting Administrator.

For the reasons stated in the preamble, parts 51 and 52 of chapter I of title 40 of the *Code of Federal Regulations* are amended as follows:

PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 51 continues to read as follows:

Authority: 23 U.S.C. 101; 42 U.S.C. 7401–7671q.

Subpart G—Control Strategy

§ 51.121 [Amended]

- 2. Section 51.121 is amended by:
 - a. Revising the section heading;
 - b. Removing and reserving paragraph (a)(2);
 - c. Revising paragraph (a)(3);
 - d. In paragraph (b)(1) introductory text, removing the text “section, the” and adding in its place the text “section, each”;
 - e. In paragraph (b)(1)(i), adding the words “during the ozone season” after the words “NO_x emissions”, adding the words “applicable NO_x ozone season” before the word “budget”, and removing the text “(except as provided in paragraph (b)(2) of this section),” and adding in its place a semicolon;
 - f. In paragraph (b)(1)(ii), removing the period and adding in its place “; and”;
 - g. In paragraph (b)(1)(iii), adding the words “NO_x ozone season” before the word “budget”;
 - h. Removing and reserving paragraph (b)(2);
 - i. In paragraph (c)(1), removing the text “With respect to the 1-hour ozone NAAQS:”;
 - j. In paragraph (c)(2), removing the text “With respect to the 1-hour ozone NAAQS, the portions of Missouri, Michigan, and Alabama” and adding in its place the text “The portions of Alabama, Michigan, and Missouri”;
 - k. Removing and reserving paragraph (d)(1);
 - l. Revising paragraph (d)(2);
 - m. In paragraph (e)(1), adding the words “ozone season” before the word “budget”;
 - n. Revising paragraph (e)(2)(i);
 - o. In paragraph (e)(2)(ii)(A), adding the words “ozone season” before the word “budget”;
 - p. In paragraph (e)(2)(ii)(B), removing the text “De Kalb” and adding in its place the text “DeKalb”;
 - q. In paragraph (e)(2)(ii)(E), removing the text “St. Genevieve,” and after the text “St. Louis City,” adding the text “Ste. Genevieve,”;
 - r. Removing paragraphs (e)(3), (4), and (5);
 - s. In paragraphs (f) introductory text and (f)(2) introductory text, adding the words “ozone season” before the word “budget”;
 - t. In paragraph (f)(2)(i)(B), removing the words “mass NO_x” and adding in their place the words “NO_x mass”;
 - u. In paragraph (f)(2)(i)(C), removing “paragraphs (f)(2)(i)(A) or (f)(2)(i)(B)” and adding in its place “paragraph (f)(2)(i)(A) or (B)” and adding the words “ozone season” before the word “budget”;

- v. In paragraph (f)(2)(ii), removing the text “(b)(1) (i)” and adding in its place the text “(b)(1)(i)”;
- w. In paragraph (g)(1), adding the words “ozone season” before the word “budget”;
- x. In paragraph (g)(2)(i), adding the words “during the ozone season” after the words “mass emissions”, adding the words “ozone season” before the word “budget”, and removing the text “as set forth for the State in paragraph (g)(2)(ii) of this section,”;
- y. Removing and reserving paragraph (g)(2)(ii);
- z. In paragraph (g)(2)(iii), adding the words “during the ozone season” after the words “mass emissions”;
- aa. In paragraph (h), removing the words “of this part”;
- bb. In paragraph (i) introductory text, adding the words “ozone season” before the word “budget”;
- cc. In paragraphs (i)(2) and (3), removing the words “of this part”;
- dd. Revising paragraphs (i)(4) and (5);
- ee. In paragraph (j)(1), adding the words “ozone season” before the word “budget”;
- ff. In paragraph (k)(2), removing the text “CAA” and adding in its place the text “CAA, 42 U.S.C. 7414”;
- gg. In paragraphs (l) and (m), removing the phrase “of this part” everywhere it appears;
- hh. In paragraph (n), removing the text “§ 52.31(c) of this part” and adding in its place the text “40 CFR 52.31(c)” and removing the text “§ 52.31 of this part” and adding in its place the text “40 CFR 52.31”;
- ii. In paragraph (o), removing the words “of this part”;
- jj. Removing and reserving paragraphs (p) and (q); and
- kk. Revising paragraph (r).

The revisions read as follows:

§ 51.121 Findings and requirements for submission of State implementation plan revisions relating to emissions of nitrogen oxides.

(a) * * *

(3) As used in this section, these terms shall have the following meanings:

Nitrogen oxides or *NO_x* means all oxides of nitrogen except nitrous oxide (N₂O), reported on an equivalent molecular weight basis as nitrogen dioxide (NO₂).

Ozone season means the period from May 1 to September 30 of a year.

Phase I SIP submission means a SIP revision submitted by a State on or before October 30, 2000 in compliance with paragraph (b)(1)(ii) of this section to limit projected NO_x emissions during the ozone season from sources in the

relevant portion or all of the State, as applicable, to no more than the State's Phase I NO_x ozone season budget under paragraph (e) of this section.

Phase II SIP submission means a SIP revision submitted by a State in compliance with paragraph (b)(1)(ii) of this section to limit projected NO_x

emissions during the ozone season from sources in the relevant portion or all of the State, as applicable, to no more than the State's final NO_x ozone season budget under paragraph (e) of this section.

* * * * *
(d) * * *

(2) Each SIP submission under this section must comply with § 51.103 (regarding submission of plans).

(e) * * *
(2)(i) The State-by-State amounts of the Phase I and final NO_x ozone season budgets, expressed in tons, are listed in Table 1 to this paragraph (e)(2)(i):

TABLE 1 TO PARAGRAPH (e)(2)(i)—STATE NO_x OZONE SEASON BUDGETS

State	Phase I NO _x ozone season budget (2004–2006)	Final NO _x ozone season budget (2007 and thereafter)
Alabama	124,795	119,827
Connecticut	42,891	42,850
Delaware	23,522	22,862
District of Columbia	6,658	6,657
Illinois	278,146	271,091
Indiana	234,625	230,381
Kentucky	165,075	162,519
Maryland	82,727	81,947
Massachusetts	85,871	84,848
Michigan	191,941	190,908
Missouri		61,406
New Jersey	95,882	96,876
New York	241,981	240,322
North Carolina	171,332	165,306
Ohio	252,282	249,541
Pennsylvania	268,158	257,928
Rhode Island	9,570	9,378
South Carolina	127,756	123,496
Tennessee	201,163	198,286
Virginia	186,689	180,521
West Virginia	85,045	83,921

* * * * *
(i) * * *

(4) If the revision contains measures to control fossil fuel-fired NO_x sources serving electric generators with a nameplate capacity greater than 25 MWe or boilers, combustion turbines or combined cycle units with a maximum design heat input greater than 250 mmBtu/hr, then the revision may require some or all such sources to comply with the full set of monitoring, recordkeeping, and reporting provisions of 40 CFR part 75, subpart H. A State requiring such compliance authorizes the Administrator to assist the State in implementing the revision by carrying out the functions of the Administrator under such part.

(5) For purposes of paragraph (i)(4) of this section, the term “fossil fuel-fired” has the meaning set forth in paragraph (f)(3) of this section.

* * * * *

(r)(1) Notwithstanding any provisions of subparts A through I of 40 CFR part 96 and any State's SIP to the contrary, with regard to any ozone season that occurs after September 30, 2008, the Administrator will not carry out any of the functions set forth for the Administrator in subparts A through I of

40 CFR part 96 or in any emissions trading program provisions in a State's SIP approved under this section.

(2) Except as provided in 40 CFR 52.38(b)(10)(ii), a State whose SIP is approved as meeting the requirements of this section and that includes or included an emissions trading program approved under this section must revise the SIP to adopt control measures that satisfy the same portion of the State's NO_x emissions reduction requirements under this section as the State projected such emissions trading program would satisfy.

§ 51.122 [Amended]

- 3. Section 51.122 is amended by:
 - a. In paragraph (c)(1)(ii), removing the text “pursuant to a trading program approved under § 51.121(p) or”;
 - b. In paragraph (e), removing the first sentence;
 - c. In paragraph (f), removing the paragraph heading; and
 - d. Removing the second paragraph (g).

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

- 4. The authority citation for part 52 continues to read as follows:

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

Subpart A—General Provisions

§ 52.38 [Amended]

- 5. In § 52.38, paragraphs (b)(8)(ii), (b)(8)(iii)(A)(2), (b)(9)(ii), and (b)(9)(iii)(A)(2) are amended by removing the text “§ 51.121(p)” and adding in its place the text “§ 51.121”.

[FR Doc. 2019-03854 Filed 3-7-19; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 27

[WT Docket No. 06-150; DA 19-77]

Service Rules for the 698-746, 747-762, and 777-792 Bands

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) describes the process for relicensing 700 MHz spectrum that is returned to the Commission's inventory

as a result of licensees' failure to meet applicable construction requirements. The document begins with the "keep-what-you-serve" (KWYS) rules applicable to failing licensees and ends with the specific rules and requirements for licensees that acquire unserved areas through the relicensing process, including through auction where necessary.

DATES: Effective April 8, 2019.

FOR FURTHER INFORMATION CONTACT:

Melissa Conway, *Melissa.Conway@fcc.gov*, of the Wireless Telecommunications Bureau, Mobility Division, (202) 418-2887.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document in WT Docket No. 06-150, FCC 19-77, released on February 12, 2019. The complete text of the document is available for viewing via the Commission's ECFS website by entering the docket number, WT Docket No. 06-150. The complete text of the document is also available for public inspection and copying from 8:00 a.m. to 4:30 p.m. Eastern Time (ET) Monday through Thursday or from 8:00 a.m. to 11:30 a.m. ET on Fridays in the FCC Reference Information Center, 445 12th Street SW, Room CY-B402, Washington, DC 20554, telephone 202-488-5300, fax 202-488-5563.

The Commission will send a copy of the document in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

Synopsis

I. Background

1. For certain spectrum blocks in the 700 MHz band, licensees that fail to meet the Commission's construction benchmarks keep the areas of the license that they serve, and the remaining unserved areas are returned to the Commission's inventory for relicensing. This approach provides other parties with opportunities to acquire spectrum that is not adequately built out and to serve communities that might otherwise not receive service.

2. This document describes the process for relicensing unserved areas, beginning with the "keep-what-you-serve" (KWYS) rules applicable to failing licensees, and ending with the specific rules and requirements for licensees that acquire unserved areas through the relicensing process, including through auction where necessary. This document is not inclusive of all relevant requirements and restrictions applicable to operations in this band, and it is the responsibility

of applicants and licensees to remain current with all Commission rules and with all public notices pertaining to the 700 MHz band, the KWYS rules, and the relicensing process. The Commission also offers maps or examples in certain instances for illustrative purposes only; these are not meant to exhaustively cover all rule requirements or describe the only permissible scenarios.

3. In 2007, the Commission, in the *700 MHz Second Report and Order* (72 FR 48814, Aug. 24, 2007), set forth rules governing certain wireless licenses in the 700 MHz band that, among other things, established interim and end-of-term construction benchmarks and status reporting requirements.¹ In 2013, the Commission released the *Interoperability Report and Order* (78 FR 66298, Nov. 5, 2013), which extended the interim construction deadline for Lower 700 MHz A and B Block licensees and removed the interim construction deadline for certain A Block licensees adjacent to Channel 51 operations.² For E Block licensees, the Commission also extended the interim and end-of-term deadlines and permitted a showing of population coverage, rather than geographic coverage. For licensees that fail to meet the applicable interim benchmark, the rules specify that the license term will be accelerated by two years for Lower A and B Block and Upper C Block licenses, and by one year for Lower E Block licenses. Most licensees in these blocks were auctioned in Auction 73 and have the respective construction requirements and deadlines listed in the document.

4. The Commission's rules require that licensees subject to the end-of-term deadline must file construction notifications, including coverage maps and supporting documentation, demonstrating that the licensee has met the end-of-term coverage requirement. Under the KWYS rules applicable to these blocks, if a licensee fails to meet its end-of-term construction deadline, its authorization to operate will terminate automatically without Commission action for those geographic areas of its license authorization in which the licensee is not providing service on the date of the end-of-term deadline, and those areas will become available for reassignment by the

¹ *See generally Service Rules for 698-746, 747-762, and 777-792 MHz Bands et al.*, Second Report and Order, 22 FCC Rcd 15289 (2007) (*700 MHz Second Report and Order*).

² *See Promoting Interoperability in the 700 MHz Commercial Spectrum*, Report and Order and Order of Proposed Modification, 28 FCC Rcd 15122, 15151-52, paragraph 65 (2013) (*Interoperability Report and Order*).

Commission. The Commission delegated authority to the Wireless Telecommunications Bureau (Bureau) to establish by public notice the process by which licenses will become available for relicensing under these rules.

5. On August 28, 2017, the Bureau released the *700 MHz Relicensing Comment PN* (82 FR 42263, Sept. 7, 2017), which described the foregoing rules and policies set forth in the *700 MHz Second Report and Order* and other relevant Commission rules and sought comment on the Bureau's proposed approach to the remaining elements of the KWYS and relicensing process.³ The Bureau sought comment on several aspects of its proposed approach: (a) The process of identifying a failing licensee's service area and the resulting unserved areas to be returned to the Commission's inventory for relicensing; (b) rules and procedures for the administration of the two-phased relicensing process; and (c) the appropriate requirements and restrictions to be applied to relicensed areas. Interested parties, including mobile wireless providers and trade associations, submitted three comments and five reply comments in response to the *700 MHz Relicensing Comment PN*.

II. KWYS Rules and Process

A. Construction Notifications

6. Licensees must file a construction notification with the Commission no later than 15 days after the relevant end-of-term construction deadline, regardless of whether they have met the construction requirements. Licensees that have satisfied the construction requirement must continue to comply with the specific construction notification filing requirements the Bureau has previously provided by this public notice. Licensees that fail to satisfy the construction requirement must file their construction notification according to the specifications for KWYS, discussed below.

7. In the *700 MHz Second Report and Order*, the Commission delegated responsibility to the Bureau for establishing the specifications for filing maps and other documents (*e.g.*, file format and appropriate data) needed to determine a licensee's service area. The Bureau previously outlined the specific construction notifications required by the Commission's rules in a series of public notices. The Bureau places

³ *See generally Wireless Telecommunications Bureau Seeks Comment on Process for Relicensing 700 MHz Spectrum Unserved Areas*, DA 17-810, Public Notice, 2017 WL 3725816 (WTB, rel. Aug. 28, 2017) (*700 MHz Relicensing Comment PN*); *see also generally 700 MHz Second Report and Order*.

construction notifications on public notice and reviews each notification and any related comments before making a determination regarding the notification. Interested parties are permitted to file comments, which must be filed no later than 30 days after the public notice release date.

8. After examining the construction notifications and public comments, the Bureau will determine whether each licensee has made a sufficient showing to satisfy the end-of-term construction benchmark and retain its entire license. The Bureau may return the filing and ask the licensee to amend the notification with additional or different information as it deems necessary, *e.g.*, description of service, description of technology, or link budgets. Alternatively, if a licensee files a notification admitting failure, but does not conform to the specifications required for the KWYS process, the Bureau will return the filing and ask the licensee to amend it with the requirements described herein. If a licensee files a request for an extension of time or a waiver of the construction deadline and the Bureau denies the request, the Bureau will instruct the licensee to file a construction notification, either demonstrating compliance with the construction benchmark as of the end-of-term construction deadline or admitting failure. Licensees that fail to meet the end-of-term construction benchmark—whether they admit failure or are deemed by the Bureau to have failed following review of the construction notification—are subject to the KWYS rules and must file their construction notification according to the specifications for KWYS described below.

B. Automatic Termination

9. The Commission implements its long-standing auto-termination process here, in combination with the additional filing procedures established below to address the failure of a licensee to make required filings. If a licensee does not file either a request for extension of time before the construction deadline or the required construction notification within 15 days after the construction deadline (as required by § 1.946 of the Commission's rules), the Commission presumes that the license has not been constructed or the coverage requirement has not been met. As a result, the Bureau places such licenses in "Termination Pending" status and lists the license on the Weekly Termination Pending Public Notice. The Bureau also notifies the licensee by letter that, if it has met its construction requirement, it

has 30 days from the date of that public notice to file a petition for reconsideration showing that it timely met the construction deadline. If the licensee does not file a petition for reconsideration within the 30-day reconsideration period showing timely construction, the Bureau updates its licensing records in the Commission's Universal Licensing System (ULS) to show the license as "Terminated," effective as of the construction deadline. The license is also listed on a weekly public notice reflecting its status as changed to Terminated. This process will be applied to 700 MHz KWYS licenses. As applied to such licenses, failure to file either the required construction notification or a timely petition for reconsideration will result in automatic termination of the entire license, regardless of whether a licensee provides service in its license area such that it might otherwise retain that portion of the license under the KWYS rules. The Commission anticipates that this approach will ensure time to confirm that areas are only classified as unserved where the licensee is actually failing to provide service required by the Commission's rules, while avoiding unnecessary delays to the relicensing process.

10. In contrast, one commenter asks the Bureau to find that if licensees fail to file the required construction notifications, the entire license will terminate and become available for relicensing. This commenter also asks the Bureau to require licensees that seek to challenge the Bureau's evaluation of their performance demonstration to submit a map identifying the unserved areas pursuant to the Bureau's evaluation, and it suggests that a licensee's failure to do so should result in termination of the license. The commenter argues that, without these requirements, licensees could thwart the relicensing process, "which is dependent on a clear understanding of the geographic boundaries for served areas." The Commission declines to implement this specific request to automatically terminate a license if the licensee fails to file the required construction notification so that the license is available for relicensing because it finds that the Commission's long-standing auto-termination process, in combination with the additional filing procedures established in this public notice, will adequately address the failure of a licensee to make required filings. The Commission agrees that the prompt commencement of the relicensing process depends on having licensees that fail to satisfy their

construction requirements make the required KWYS filings, as it is these filings that will enable the Bureau to identify the unserved areas available for relicensing.

C. Required KWYS Filing

11. In the *700 MHz Relicensing Comment PN*, the Commission noted that licensees that fail to meet the construction requirement—whether they admit failure or are found by the Bureau to have failed following review of the construction notification—are subject to the KWYS rules. Accordingly, they will be required to file an electronic coverage map that demarcates the geographic portion of the licensed area that the licensee will retain and the geographic area that will be returned to the Commission for reassignment. Licensees admitting failure must file their construction notification at the end-of-term construction deadline according to the specifications for KWYS described below. If a licensee claims to have met the construction benchmark, but the Bureau deems the licensee to have failed after review of the construction notification, the licensee will be asked to amend its initial construction notification filing to comply with the KWYS specifications.

1. Service Area

12. In the *700 MHz Relicensing Comment PN*, the Commission proposed a process whereby licensees would demonstrate the "served" areas of their license by submitting a shapefile showing a smooth enclosed 40 dB μ V/m field strength contour⁴ of existing facilities by the end-of-term deadline. The portion of the license market covered by the smooth contour would be deemed "served" for purposes of the KWYS rule and become the reduced licensed area that the licensee "keeps." Noting the requirement that licensees not exceed 40 dB μ V/m field strength at the license boundary, as well as the Commission's observations of existing services in the 700 MHz band, the Commission anticipated the 40 dB μ V/m field strength smooth contour would be the most suitable means of determining licensees' service areas. However, because some licensees might provide service at lower field strength such that the 40 dB μ V/m smooth contour would result in a reduced licensed area that might be substantially smaller than the licensee's actual service area, the Commission proposed an alternative

⁴ A smooth contour is a closed, non-overlapping polygon. Here, the smooth contour would be a closed, non-overlapping polygon reflecting the signal area at 40 dB μ V/m field strength.

option for licensees. Under the alternative option, if the 40 dB μ V/m smooth contour would result in a reduced licensed area that is at least 25% smaller than the licensee's actual service area, the licensee could demonstrate the service area using a lower dB μ V/m field strength smooth contour.

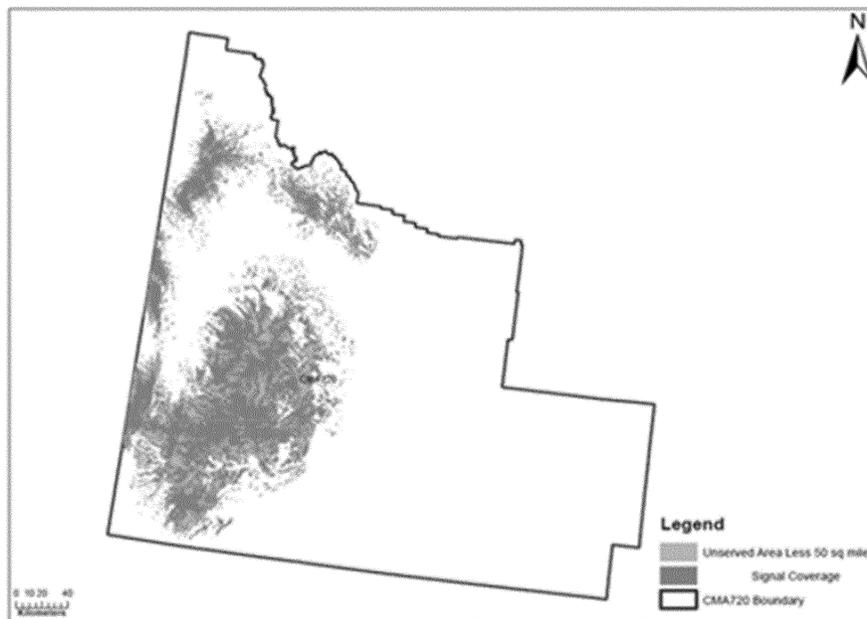
13. In response to the Commission's proposal, one commenter argues that the 40 dB μ V/m field strength smooth contour will not accurately represent coverage provided by 700 MHz licensees, will penalize licensees providing service at lower field strengths, and will create unnecessarily duplicative coverage filings. Instead, this commenter suggests that the Commission allow licensees to "provide a coverage showing that is based on real-world service to the public and not be bound to a particular metric or technology in doing so." Three

additional commenters expressed general support of this position.

14. Because allowing licensees to tailor their demonstrations to the services they provide more accurately represents their service areas, the Commission agrees with these commenters' suggested modification of its proposal. Accordingly, licensees will be required to identify their service area based on the methodology the licensee deems to best represent the areas of coverage in which it provides service.⁵ Licensees must file service area demonstrations that reflect the signal level that the licensee has previously represented as service to its customers (*e.g.*, in advertised coverage materials) and the Bureau (*e.g.*, in construction notifications), and licensees should be prepared to defend the methodology used. The Commission also reminds licensees that the service area demonstration will ultimately establish

the licensees' revised license boundary; at the boundary, licensees will be required to comply with the 40 dB μ V/m field strength limit for 700 MHz licensees set forth in the Commission's rules. Geographic areas to be made available for relicensing must include a contiguous area of at least 50 square miles, and areas smaller than that will be retained by the licensee. Licensees should include and identify such areas in the maps representing their service area. As with all other 700 MHz construction notifications, licensees are required to submit shapefiles, PDF maps, and technical narratives supporting their coverage demonstrations. As demonstrated in Figure 1 below, a licensee's shapefile map reflecting their service area must clearly reflect the market boundary and the areas served, and identify the unserved areas less than 50 square miles that the licensee is retaining.

Figure 1: Service Area Demonstration



15. One commenter asks the Bureau to consider a "county-based approach," under which licensees that serve over 50% of the geography of a county would retain the entire county; licensees that cover 50% or less of a county, in contrast, would have their license area

reduced so as to no longer include that county. This commenter argues that this approach would make spectrum available for relicensing in a more efficient manner and that, since most license authorizations are based on county boundaries, county-based areas

would conform more easily to the boundaries of licensees' other spectrum assets. It further argues that allowing licensees to define license areas would be burdensome and could lead to inaccurate results. Three other commenters opposing the county-based

⁵ Smooth contour methodology is permissible but not required. The Commission observes, however, that if a licensee's coverage demonstration contains a large number of non-contiguous, small areas (*e.g.*, the scattering of green dots in Figure 1), the revised license will have a large number of license

boundaries—one around each non-contiguous area. At each of these boundaries, the licensee must observe the 40 dB μ V/m field strength limit. Given that compliance with the field strength limit along a large number of these non-contiguous boundaries may be difficult to achieve, such licensees may

want to opt for a smooth contour methodology, or other methodology that minimizes non-contiguous boundaries yet accurately depicts areas of coverage in which they provide service.

approach argue that it runs counter to the purpose of the KWYS rules, as it would require licensees serving up to 50% of a county to cease providing service in those areas, while allowing other licensees to retain an entire county even where there were unserved areas in the county, thus leaving potentially large portions of unserved areas unavailable for relicensing.

16. The Commission rejects the county-based approach. Implementing this approach would require a rule change, which is beyond the scope of the authority delegated to the Bureau in the *700 MHz Second Report and Order*. It also would be contrary to the underlying purpose of the KWYS rules. In other words, rather than fulfilling the purpose of the rules to allow failing licensees to keep the areas that they serve and make any unserved areas available for relicensing, a county-based determination of coverage would terminate the authorizations of certain licensees in areas where they actually are providing service, while allowing other licensees to retain up to half a county of unserved area.

2. Bureau Review

17. As noted above, the Commission will allow licensees to demonstrate coverage based on their actual service in each geographic license area. A licensee must submit a coverage showing that reflects its actual service to the public, based on the methodology it deems to best represent the areas in which the public receives its actual service.

18. As the Commission also stated above, demonstrations of service area should reflect the signal level that the licensee has previously represented as service to its customers (e.g., in advertised coverage materials) and the Bureau (e.g., in construction notifications), and licensees should be prepared to defend the methodology used. The Commission cautions licensees that the Bureau will look critically at demonstrations that deviate from the metrics used in the licensee's interim construction notification or represented to its customers, especially showings that materially reduce the signal level at the boundary such that the demonstration might artificially inflate the licensee's service area.

19. While the Commission recognizes that license boundaries will not be uniform (see Figure 1),⁶ it warns licensees against including areas where

no real service is provided that are merely figments of topography (e.g., areas of high elevation distanced from and not part of areas where actual service is provided). Even though the reduced license boundaries will be non-uniform, applicants participating in the relicensing process can apply for adjacent unserved areas and take advantage of the flexibility in the Commission's power and secondary markets rules to coordinate and cooperate with neighboring licensees.

20. The Commission again reminds licensees that have not met their construction and service requirements that the service area demonstration, if approved, ultimately will establish the licensees' new license boundary. At the boundary, licensees will be required to comply with the 40 dBuV/m field strength limit for 700 MHz licensees set forth in the Commission's rules. Licensees must file demonstrations of service area using map and file formats similar to those required for construction notifications.

21. For these licensees, following the 30-day public notice period and after review of each KWYS filing and any related comments, if the Bureau agrees with the licensee's depiction of areas to be retained, it will accept the licensee's construction notification. The Bureau will also update ULS using the licensee's service area demonstration to reflect the reduced license area. The remaining portion of the original license market will be deemed unserved area and will return to the Commission's inventory for relicensing.

22. The Commission notes that the Bureau will have the opportunity to assess the success of this approach when it is implemented for the first group of licenses subject to KWYS. The Commission will monitor the results of the finalized process described above and will consider adjusting the methodology for future iterations of KWYS should the current approach prove to be cumbersome, inefficient, or ineffective.

D. Identifying Unserved Areas

23. Information about the available unserved areas will be publicly available. The Bureau will use the shapefiles submitted by failing licensees to determine the unserved areas of each market. The Bureau will then compile those unserved portions together as areas that will be available for relicensing and will provide instructions on how to access that information by public notice. The Bureau will provide applicants with access to a publicly available map displaying the areas available for

relicensing, which they can view, download, and use to determine the areas for which they may wish to seek a license. The public notice announcing the unserved areas available for relicensing will also provide further instructions and specific dates for the commencement of the relicensing process. In setting these dates, the Bureau will provide at least 60 days before the commencement of relicensing to enable potential applicants to conduct all manner of due diligence, including evaluating sites and technical requirements, e.g., site acquisition or lease, existing infrastructure, neighboring operations, and network and backhaul needs. These inquiries are particularly important, given the requirements of licensees described in Section IV.

III. Phased Relicensing Process

24. Pursuant to the Commission's rules, relicensing of unserved areas will occur through a two-phase application process, beginning with a 30-day Phase 1 filing window, followed by a Phase 2 rolling window for applications. Applications for available unserved areas must be filed via ULS, and applicants must submit a shapefile describing the areas for which they seek a license.

A. Applications

25. In the interest of administrative clarity and functionality, the Commission proposed to limit the shapefiles attached to applications for unserved areas to include a single shape covering one contiguous area; if an applicant sought non-contiguous areas to be authorized under the same license, the Commission proposed requiring that the shapes be within a single market boundary.⁷ The Commission also proposed that, if an applicant files for non-contiguous shapes in a single application, grant of the application would result in a single license and a single buildout requirement that would be applied to all shapes as a whole. Consequently, failure to meet the buildout requirement with respect to one non-contiguous shape would result in the imposition of the penalty for buildout failure on all shapes covered by the license.

26. Only one commenter addressed the Commission's proposals concerning the processing of applications. It requests that applicants be permitted to list all the unserved areas for which

⁶The maps and service area demonstrations presented in the Figures of this document are for illustrative purposes only. Any such maps or demonstrations contained in a given application must accurately reflect the unique characteristics of each applicant's specific demonstration or request.

⁷For example, a non-contiguous shapefile for A-Block areas must be contained within one Economic Area (EA); a non-contiguous shapefile for B-Block areas must be contained within one Cellular Market Area (CMA).

they seek a license within a single application to avoid the need to file multiple applications for each unserved area. Second, “rather than relying only on a map to indicate areas available for relicensing, this commenter suggests that the Bureau also provide a ‘drop-down list’ of unserved areas that an interested party may select from when submitting its application.” One other commenter supported both suggested changes in its reply.

27. Consistent with the Commission’s initial proposal, licenses issued through the relicensing process may cover unserved area that crosses market boundaries, as long as the license area is a single contiguous shape; if an applicant seeks a single license for multiple non-contiguous areas, those non-contiguous areas must fall within a single FCC-defined market boundary for the appropriate channel block. The Commission will modify the ULS system, however, so that applicants may file requests for multiple licenses within a single application form.⁸ Under this process, the number of shapefiles uploaded within a single application form will dictate the number of licenses that will be issued, if the application is granted. For example, if an applicant wishes to apply for multiple areas to be authorized under separate licenses, it may do so within a single application form by uploading separate shapefiles, each covering the area(s) for which it seeks an individual license. Grant of the application will result in separate licenses being issued for the area(s) covered by each shapefile and separate buildout requirements for each license. If an applicant seeks to apply for multiple non-contiguous areas within a single market boundary to be authorized under a single license, it may do so by uploading to its application a single shapefile that includes each of those areas. Grant of the application will result in a single license and a single buildout requirement, which will apply to all the non-contiguous areas as a whole. A request for such a license could be combined in the same application form with requests for other licenses—whether covering another set of non-contiguous areas within a single market boundary, or covering one contiguous area—in which case each additional shapefile uploaded to the application form would result in an additional license.

⁸ ULS purpose code NE (New). This functionality will not apply to license modifications—ULS purpose code MD (Modification)—as applications to expand into unserved areas adjacent to an existing license require separate processing through an individual license modification application.

28. While the Commission is taking several steps to make the relicensing process efficient and easy to use, it rejects the suggested “drop-down list” of available unserved areas. In the 700 MHz relicensing context, available unserved areas will be determined based on the non-uniform, potentially scattered service areas of failing licensees, which will be constantly changing as unserved areas are returned to the Commission’s inventory. Moreover, applicants are free to apply to serve as much or as little available unserved area as they choose. Instead, the Commission provides greater flexibility for applicants to choose whatever portions of available unserved areas they wish to serve at that time rather than limiting applicant’s choices to a pre-defined “drop-down list.” Therefore, the Commission will allow applicants to select from the available unserved areas by uploading a shapefile covering the area(s) for which they seek a license.

29. Parties must file applications for available unserved areas via ULS by submitting a shapefile describing the area for which they seek a license. Applicants can download the publicly available map displaying the available unserved areas and use the file to create the shapefiles to be included in their application. Acceptable shapefiles include all GIS Map File types, including XML, KML, KMZ, and Shape(zip). Subject to the restrictions of Phase 1 and other relicensing rules described below, applicants may apply for any sized area or number of available areas they choose. For instance, while only unserved areas that are at least 50 square miles will be returned to the Commission for relicensing, there is no minimum size requirement for applications to license available unserved areas. Given the stringent construction benchmarks for relicensed areas and the penalty for failure, described in Section IIV, it is particularly important that potential participants in the relicensing process perform due diligence to determine the areas to which they will be able to provide service, including inquiries about site acquisition or lease, existing infrastructure, neighboring operations, and network and backhaul needs. Applicants should only apply for portions of available unserved areas that accurately reflect their predicted service area based on precise engineering and projected signal propagation specific to the area.

30. As with other processes for the licensing of spectrum, at the application stage applicants will not be required to, and should not, file any technical

specifications of the services they intend to provide. If an applicant submits any technical specifications or other information not required in the application, the Bureau will not review such information, and the Bureau’s acceptance of an application that includes such information is not an acceptance of those technical specifications. Such filings with technical specifications of the service provided will be reviewed when the licensee files its notification of construction, as discussed in Section IIV.

31. All applications for available unserved areas found acceptable for filing (including the shapefile) will be placed on public notice, and the applications will be available for public review and comment. Because the shapefile contains the primary substantive information for which public notice is provided, *i.e.*, details about the scope of the requested license area sufficient to determine whether the license application is mutually exclusive with another application, we do not anticipate a likely scenario in which confidential treatment of a shapefile would be warranted.

32. *Form of Application.* Applicants will file an application for either one or more new licenses or to modify an existing license. To file an application for a new license for available unserved area, applicants will select the ULS purpose code NE (New). Alternatively, modifications may be used where an applicant is an existing 700 MHz licensee of area adjacent to available unserved areas and wishes to expand the existing license area to contiguously cover a portion of that adjacent unserved area in the same frequency band. Licensees wishing to modify an existing license in such a manner will select the ULS purpose code MD (Modification). While unserved areas acquired as a new license will have a ten-year license term, the effect of requesting a modification of an existing license would be to include the same expiration date as the original license being modified. However, please note that the same construction requirements will apply, regardless of whether the area is acquired as a new license or a license modification.

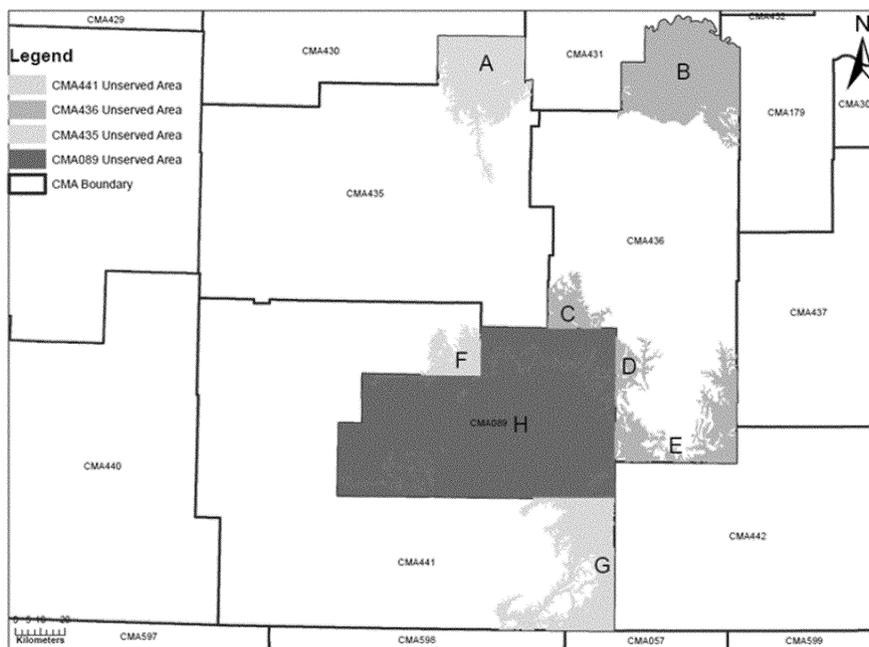
33. *Permissible Area(s) under Single License.* A license issued through the relicensing process may cover unserved area that crosses market boundaries, as long as the license area is a single contiguous shape. If an applicant seeks a single license for multiple non-contiguous areas, those non-contiguous areas must fall within a single market boundary (*see* Figure 2). With the

exception of applicants filing license modifications during the first round of relicensing,⁹ if a licensee wishes to

modify an existing license to add available unserved area(s), it may do so as long as the area(s) are adjacent to the

area of the existing license (see Figure 2).

Figure 2: Permissible Applications



34. In Figure 2 above, the areas labeled as A through H represent unserved areas in various adjacent Cellular Market Areas (CMAs). An applicant could file for F, H, and D to be authorized under a single license, even though those areas cross multiple CMA boundaries, because they are all contiguous with each other. An applicant could also file for B, C, D, and E to be authorized under a single license, even though the areas are non-contiguous, because the non-contiguous areas fall within the same CMA. An applicant could not, however, apply for A and B to be authorized under a single license, because the areas are non-contiguous *and* are in different CMAs. Multiple licenses would be required to offer service in these areas.

35. Now suppose that in Figure 2 above, the area marked H represents an existing license for the entire market area of CMA089, which is adjacent to market areas containing the available unserved areas labeled A through G. If the licensee in CMA089 wanted to modify its license to add available unserved areas, it could do so with areas

C, D, E, F, and G, because they are all contiguous to the existing license. However, the licensee in CMA089 could not modify its license to add areas A or B, because they are not contiguous to the existing license and are not within the same market area as the existing license. Provision of service in areas A or B would require a new license.

36. *Applying for Multiple Licenses on a Single Application Form.* Applicants seeking new licenses will have the flexibility to file requests for multiple licenses on a single application form. Under this process, the number of shapefiles uploaded within a single application form will dictate the number of licenses that will be issued if the application is granted. For example, if an applicant wishes to apply for multiple contiguous or non-contiguous areas to be authorized under separate licenses, it may do so within a single application form by uploading separate shapefiles, each covering the areas for which it seeks an individual license; grant of the application would result in separate licenses for the areas covered by each shapefile and an

individual buildout requirement for each license. If an applicant seeks to apply for multiple non-contiguous areas to be authorized under a single license, it may do so (as long as the areas are within a single market boundary) by uploading to its application a single shapefile that includes all of those areas. Grant of the application would result in a single license and a single buildout requirement would apply to all shapes as a whole. A request for such a license could be combined on the same application form with requests for other licenses—whether covering another set of non-contiguous areas within a single market boundary or covering one contiguous area—in which case each additional shapefile uploaded to the application form would result in an additional license. This functionality will not apply to license modifications, however, because applications to expand into unserved areas adjacent to an existing license require processing through an individual license modification application.

37. *Error Codes.* When an applicant uploads a shapefile in an application for

⁹Due to pending changes to ULS necessary for the processing of such applications, applicants during the first round of relicensing (*i.e.*, relicensing of unserved areas returned to the Commission's inventory as a result of failure to satisfy the June

13, 2017 construction deadline) will not have the ability to modify an existing license to add available unserved areas in an adjacent market. However, the Commission anticipates that the necessary system changes will be completed in time to process such

applications during the next round of relicensing unserved areas resulting from any failures in 2019 or thereafter.

unserved area that does not conform to the requirements for shapefile filing

format, the system will display an error code. The table in Figure 3 below

provides an explanation of each error code and how it can be resolved.

FIGURE 3—ERROR CODES

Error code	Description of error/solution
Invalid Spectrum	The radio frequency data attribute does not match the selected radio service code or is not in the proper form. For example, the frequencies listed for the Lower B Block should appear as: 000704.00000000–000710.00000000, 000734.00000000–000740.00000000.
Invalid Market	(For Modifications Only) The Market Area Code listed in the shapefile data attributes does not match the Market Area Code for the license being modified.
Invalid Channel Block	(For Modifications Only) The channel block reflected in the shapefile data attributes does not match the channel block of the license being modified.
Missing Shapefile Attribute	The shapefile does not include all the required data attributes.
Please Upload at least one 700 MHz Relicensed Area Shapefile.	No shapefile has been uploaded.
Invalid Radio Service Code	The radio service code reflected in the shapefile data attributes does not match the Radio Service Code selected by the applicant at the beginning of the application.
Invalid Channel Block for Radio Service.	The channel block reflected in the shapefile data attributes does not match the Radio Service Code selected by the applicant at the beginning of the application.

38. *Ownership Certification.* Section 27.14 bars the original licensee of available unserved areas, whose authorization to serve that area terminated due to failure to meet the end-of-term construction benchmark, from applying to relicense that area during Phase 1. The section also permanently bars licensees of areas acquired through the relicensing process from applying to serve that area at any future date if they fail to satisfy the one-year 100% construction requirement.

39. In order to implement § 27.14(j)'s requirements, the Commission proposed to apply the prohibition to any applicant that has any interest or ownership in, or any control of, the original licensee and to any applicant in which the original licensee has any interest, ownership, or control. The Commission sought comment on requiring applicants to make certain certifications regarding the applicant's relationship to any barred parties in each application for unserved area (Ownership Certification).¹⁰ Alternatively, the Commission sought comment on using a standard similar to the one the Commission uses in evaluating *pro forma* transfers of control, which considers both *de jure* and *de facto* control of the licensee, and the Commission asked whether such a standard might be more appropriate than the proposed bright-line test for ownership.

40. All commenters addressing this issue favored the alternate proposal, which would apply the bar based on *de*

jure or *de facto* control. One commenter argues that barring parties with any interest in a barred party, as proposed, might go too far, and that such a bright-line rule “could inadvertently exclude parties that were not in control of the initial 700 MHz licensee that failed to provide service.” Instead, this commenter argues that determining ownership based on *de jure* and *de facto* control will allow the Bureau more effectively and precisely to bar the correct parties. Another commenter asks the Bureau to “take an expansive view of this bar,” and apply the bar to any parties that “have had a management agreement, lease arrangement, or similar interests in the licensee.”¹¹

41. The Commission concludes, based on the record, that its alternative proposal of using *de jure* and *de facto* standards of control will best serve its goals of encouraging licensees to satisfy their construction requirements while providing others with the opportunity to serve areas that remain unconstructed, and ensuring that the appropriate entities are barred from filing pursuant to Commission rule § 27.14. The Commission's initial proposal was designed to provide an easily administered bright-line test to prevent potential gaming of the relicensing process. After review of the record, the Commission recognizes that such a broad standard may inadvertently exclude entities that do not have a significant connection, in terms of ownership or control, with the barred licensee to be indicative of the applicant's future actions. It is the

Commission's predictive judgement that using a *de jure* and *de facto* standard of control approach strikes a balance that will help to promote a larger and more diverse pool of applicants—particularly given the Commission's goal of promoting prompt provision of service through adoption of a one-year construction period for relicensed areas. In light of this balance, the Commission does not agree with the commenter suggesting that the existence of management agreements or lease arrangements with a barred entity should be sufficient to bar an applicant in all cases. However, the Commission finds that the fact-specific, case-by-case nature of the *de jure* and *de facto* control standard will provide the Commission the flexibility to consider that nature of various business relationships between parties to determine whether a party is barred from filing under § 27.14.¹² The Commission therefore makes modifications to its proposed Ownership Certification as described below to implement the rule § 27.14 bar applicable to: (1) Temporarily during Phase 1 to licensees that failed to satisfy their initial term construction requirements (Original Licensee), and (2) permanently to licensees of relicensed area that fail to satisfy the construction requirements (Relicensed Area Licensee).

42. The Commission defines “Original Licensee” or “Relicensed Area Licensee” to include any entities or individuals that have either *de jure* or

¹⁰ While the Commission did not use the defined term “Ownership Certification” in the 700 MHz Relicensing Comment PN, the Commission does here to clarify that the Ownership Certification includes all the statements that will be required for applicants to certify to in order to determine which applicants are barred, as described in this section.

¹¹ While the commenter asserts that this “expansive view” is supported by the factors listed in the Commission's designated entity rule, those rules only include *present* management agreements, not past management agreements or past or present lease arrangements.

¹² While lease arrangements and management agreements are relevant considerations, they are not per se evidence of *de facto* control. Rather, the existence of such an agreement is one of many factors that may together or independently, depending on the factual circumstances, create a controlling interest.

de facto of the party that failed to satisfy the construction requirement, and any entities in which the party that failed to satisfy the construction requirement has either *de jure* or *de facto* control. A would-be applicant will be barred from applying to serve available unserved areas if any entity or individual that had or has *de jure* or *de facto* control of the Original Licensee or Relicensed Area Licensee also has *de jure* or *de facto* control of the applicant, the applicant has either *de jure* or *de facto* control of the Original Licensee or Relicensed Area Licensee, or if the Original Licensee or Relicensed Area Licensee has *de jure* or *de facto* control of the applicant.

43. All applications for available unserved areas filed during both phases of relicensing must include as an attachment the Ownership Certification provided below. While applicants will not be required to file any supporting documentation with respect to the Ownership Certification, the Bureau may request such information at its discretion.

Ownership Certification: “By filing this certification and the accompanying application for 700 MHz unserved area, the applicant hereby certifies that, pursuant to Section 27.14(j)(1) and (3) of the Commission’s rules: (1) The applicant is not the Original Licensee or Relicensed Area Licensee that is barred from applying to serve the area during the current phase of relicensing; (2) the applicant does not at the time of filing, and did not at the time of the relevant construction deadline, have *de jure* or *de facto* control over the Original Licensee or Relicensed Area Licensee (including any entity or individual that had or has *de jure* or *de facto* control of such entity) of the unserved area; and (3) the Original Licensee or Relicensed Area Licensee of the unserved area does not at the time of filing, and did not at the time of the relevant construction deadline, have *de jure* or *de facto* control of the applicant.”¹³

B. Tribal Priority

44. One commenter asks the Bureau to create a “Tribal Priority” for the relicensing process. Under its proposal, qualifying Tribal entities would notify the Bureau of “proposed Tribal Lands they wish to serve and, after notice and comment, such lands would be removed from the areas available for relicensing.”

¹³ The Commission notes that, while it will require applicants to attach the Ownership Certification during both phases of relicensing, applicants are only certifying that they are not barred during the phase in which they are filing. For example, an applicant that would have been barred only during Phase 1 for a particular unserved area (*i.e.*, the original licensee of the unserved area or a related entity as defined by the certification) is not barred during Phase 2 and could make the necessary Ownership Certification stating that it is not a barred party.

This commenter asks for several amendments to the Commission’s part 27 rules to implement its proposal. It also asks the Commission to delay the commencement of the relicensing process, as well as to modify and extend our construction obligations for qualifying Tribal entities.

45. The Commission did not adopt any type of priority for Tribal entities when it established the KWYS rules and relicensing process in the *700 MHz Second Report and Order*.¹⁴ Moreover, the Bureau did not make any proposals relating to a Tribal Priority in the *700 MHz Relicensing Comment PN*. Accordingly, the Commission finds these requests are beyond the scope of the authority delegated to the Bureau in this context and that its comments are outside the scope of the public notice seeking comment on specific aspects for implementing that process. The Commission therefore takes no substantive action in response to those requests, and they will not be considered further in connection with the Bureau’s implementation of this relicensing process.¹⁵

C. Phase 1 of Relicensing

46. *Filing Window.* Relicensing will begin with a 30-day Phase 1 filing window. At least 60 days before the commencement of the relicensing process, the Bureau will issue a public notice announcing the available unserved areas and the relevant dates on which the Phase 1 filing window will start and end. During this Phase 1 filing window, the original licensee of available unserved areas, whose authorization to serve that area terminated due to failure to meet the end-of-term construction benchmark, is barred from applying to relicense that area. This Phase 1 bar is specific to each unserved area, and therefore an applicant that is barred from applying for one unserved area during Phase 1 is not barred from applying for other available areas for which it was not the original licensee. All applications received during the Phase 1 filing window for a particular unserved area are treated as contemporaneous for the purposes of mutual exclusivity. At the end of the 30-day Phase 1 filing

¹⁴ The Commission also notes that none of the interested parties commenting in that proceeding asked the Commission to consider the rule changes necessary to create a Tribal Priority for the relicensing process, nor did they file a petition for reconsideration of the *700 MHz Second Report and Order*.

¹⁵ That said, the Commission’s declining to take action here is without prejudice to any future request the commenter may choose to file with the full Commission to initiate further rulemaking action in these regards.

window, the Bureau will issue a public notice listing applications found acceptable for filing during Phase 1, and identifying which acceptable applications, if any, are mutually exclusive. No further applications that are mutually exclusive of a pending Phase 1 application may be filed after the 30-day Phase 1 filing window has ended, but licensees and third parties may file petitions to deny any pending applications within 30 days of the release of the public notice listing Phase 1 applications found acceptable for filing.

47. *Mutual Exclusivity.* Applications will be deemed mutually exclusive if they propose areas overlapping with other applications. As proposed, this definition of mutually exclusive applications includes “daisy chains” of mutual exclusivity, *see* Figure 7, which occur when two or more applications contain proposed areas that do not directly overlap, but are linked together into a chain by the overlapping proposals of others. Mutually exclusive applications are subject to auction and the Bureau will provide a limited settlement period for the applicants to resolve the mutual exclusivity prior to auction. Subject to the Greenmail Rule, applicants may resolve mutual exclusivity by withdrawing or filing a minor amendment to one or both mutually exclusive applications.

48. *Settlement.* Pursuant to the Communications Act and the Commission’s rules, mutually exclusive applications are subject to auction. The Commission delegated authority to the Bureau to designate a limited settlement period for the applicants to resolve the mutual exclusivity prior to auction. In the *700 MHz Relicensing Comment PN*, the Commission proposed that Phase 1 applicants would be permitted to resolve their mutually exclusive applications during a 30-day period that follows the close of the Phase 1 filing window.

49. One commenter asks the Bureau to “provide additional time for settlement discussions following the Phase 1 filing window,” as the 30-day Phase 1 public notice period may be insufficient for the parties to negotiate and settle their mutually exclusive applications. No other parties filed comments in response to this request.

50. Given the complexity of resolving mutually exclusive applications in either Phase 1 or Phase 2,¹⁶ the

¹⁶ In both Phase 1 and Phase 2, applicants must consider the likelihood of success at auction when compared to agreeing to reduce coverage in some way. Considerations of reducing coverage include meeting consumer demand in particular areas,

Commission provides applicants consistency by giving Phase 1 applicants the same settlement period that we proposed for Phase 2 applicants. Therefore, upon release of the public notice listing the applications found acceptable for filing during Phase 1, applicants will have 60 days to attempt to reach a settlement concerning the mutually exclusive applications. Any mutual exclusivity that is not resolved by the end of the 60-day period will subject the mutually exclusive applications to auction.

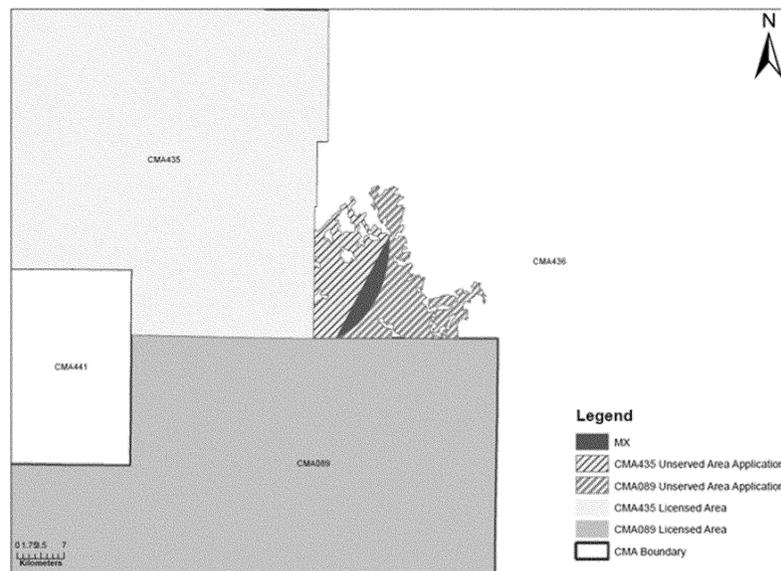
51. *Amendments.* Amendments to an application are considered either major amendments or minor amendments, depending on the circumstance. If one

or both of the applicants agrees to reduce or “pull back” the area covered by the application to avoid mutual exclusivity, the change is deemed a minor amendment. Minor amendments do not materially alter the original applications and do not require a new public notice period. Such treatment, however, is not available when a modification to an application constitutes a major amendment. If the applicants’ agreement would require that either application be modified to “move” the area applied for, such that it would include area that was not part of the area specified in the application as originally filed,¹⁷ such a change would be deemed a major amendment.

Because major amendments constitute new applications for unserved area, major amendments to Phase 1 applications after the 30-day Phase 1 filing window has ended are not permitted, and the underlying application may be dismissed unless the applicant withdraws the major amendment or adjusts the filing to represent only a minor amendment. At that point, the dismissed applicant could file a new application for a license covering the modified area, but such application, because it would be filed during Phase 2, would be subject to potential Phase 2 competing filings.

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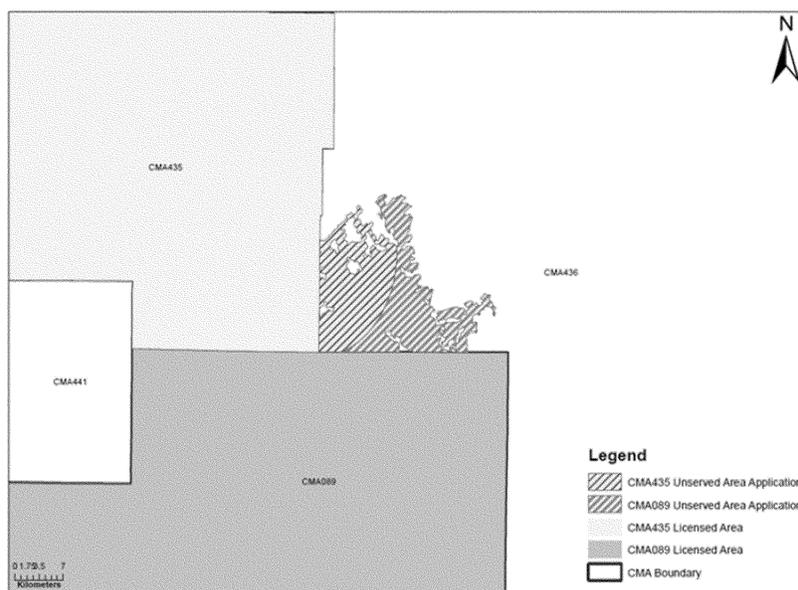
Figure 4: Mutual Exclusivity



whether other spectrum bands could be used to address these demands, whether sites can be economically re-engineered to reduce coverage as needed, etc.

¹⁷ Such a modification could reflect an expansion of the originally requested area, or it could be the result of a substitution that maintains or reduces the net square mileage covered by the original request,

but which describes an area that includes at least some geographic portion that was not requested in the application as originally filed.

Figure 5: Minor Amendment**Figure 6: Major Amendment**

52. Figure 4 above represents two existing licensees—one in CMA435 and one in CMA089—that have applied for available unserved areas adjacent to both existing licenses, in CMA436. Because the areas covered by the applications overlap, the applications are mutually exclusive. In Figure 5, the licensee in CMA089 has pulled back its application for unserved area to eliminate the overlapping area, thereby avoiding mutual exclusivity. Figure 5

reduces the area of the application and therefore represents a minor amendment. In contrast, in Figure 6, in addition to pulling back its application to eliminate the overlapping area, the licensee in CMA089 has also expanded its application to include additional available unserved area in CMA436. While the amendment in Figure 6 avoids mutual exclusivity, it adds unserved area that was not included in the application as originally filed, and

therefore represents a major amendment. Such major amendments, if filed after the 30-day Phase 1 filing window has ended, are not permitted; therefore, the underlying application may be dismissed unless the applicant withdraws the major amendment or adjusts the filing to represent only a minor amendment.

D. Phase 2 of Relicensing

53. Following Phase 1, the Bureau will issue a public notice that will (1) list applications found acceptable for filing during Phase 1, (2) direct interested parties to the publicly available information about the available unserved areas, and (3) announce the date on which the Bureau will begin accepting Phase 2 applications. The Bureau will update the publicly available relicensing map to reflect pending applications, licenses that were issued, and areas that remain available for relicensing.

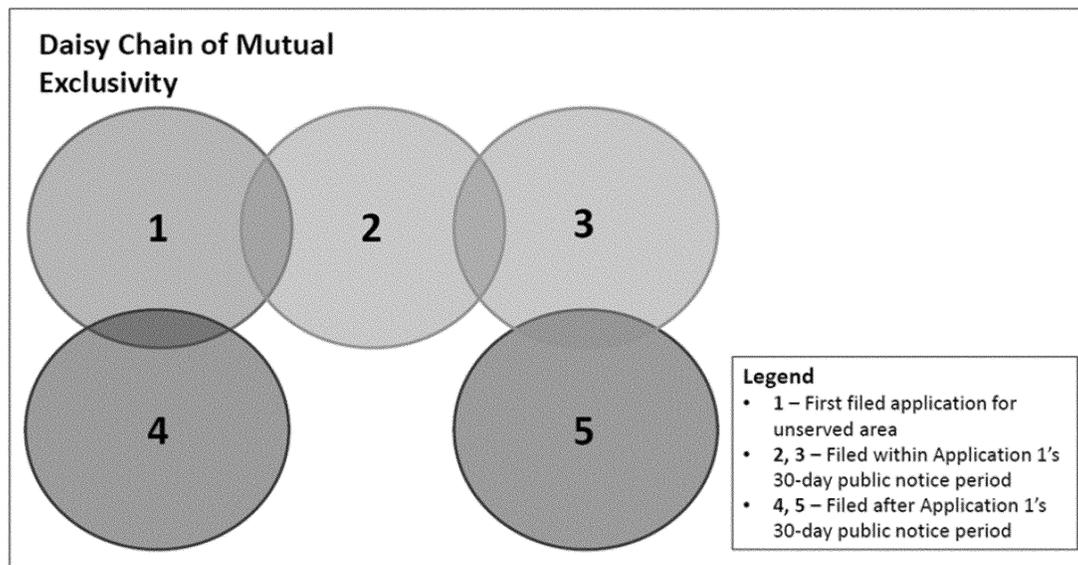
54. During Phase 2, interested applicants, including those that were barred during Phase 1, may file applications on a rolling basis for available unserved areas that were not licensed during Phase 1 or for which there are no pending applications. However, licensees that have failed to

satisfy the construction requirements for relicensed area are permanently barred from applying to serve that area at any future date, including during Phase 2. The Bureau will place each first-filed Phase 2 application deemed acceptable for filing on public notice for 30 days, during which interested applicants may file mutually exclusive applications subject to the guidelines in this document.

55. *Mutual Exclusivity.* As with Phase 1, Phase 2 applications will be deemed mutually exclusive if they propose areas overlapping with other applications. This definition of mutually exclusive applications includes “daisy chains” of mutual exclusivity, which occur when two or more applications contain proposed areas that do not directly overlap but are linked together in a chain by the overlapping proposal(s) of other(s), *see* Figure 7. The date of the

public notice of the first-filed application in a given unserved area will establish the 30-day filing period for all subsequent applications that are mutually exclusive—whether directly or through a “daisy chain” relationship—with the first-filed application. The Bureau may dismiss any further mutually exclusive applications filed after this 30-day filing period, unless the applicant amends the application to avoid mutual exclusivity. Mutually exclusive applications are subject to auction and the Bureau may designate a limited settlement period for the applicants to resolve the mutual exclusivity prior to auction. Subject to the Greenmail Rule, applicants may resolve mutual exclusivity by withdrawing or filing a minor amendment to one or both mutually exclusive applications.

Figure 7: Daisy Chain of Mutual Exclusivity



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56. Figure 7 illustrates how applications that do not directly overlap with other applications may nevertheless be considered mutually exclusive through a daisy chain. In Figure 7, an applicant files Application 1 for available unserved area during Phase 2, which starts a 30-day public notice period during which third parties may file petitions to deny and applications that are mutually exclusive of Application 1. On day 10 of Application 1's public notice period, a party files Application 2, which is mutually exclusive of Application 1. On day 20 of Application 1's public notice

period, another party files Application 3, which is mutually exclusive of Application 2, but not mutually exclusive of Application 1. Applications 1, 2, and 3 represent a daisy chain of mutual exclusivity and all three applicants would be required to reach a settlement to avoid an auction to resolve the conflicting applications. Applications 4 and 5 are filed on day 40, after the close of Application 1's public notice period. Unless Application 4 is amended to avoid mutual exclusivity, Application 4 may be dismissed because it is mutually exclusive of Application 1 and was filed

after the close of Application 1's public notice period. Application 5 is mutually exclusive of Application 3 and may be dismissed unless amended to avoid mutual exclusivity, because it is part of the daisy chain of mutual exclusivity with Application 1 and was filed outside of the first-filed application's public notice period.

57. *Settlement.* As proposed, following a Phase 2 application's 30-day public notice period, if the Bureau determines there are existing applications that are mutually exclusive of the initial application, it will issue a public notice identifying the conflicting

applications and providing the parties with 60 days to resolve the mutual exclusivity. Any mutually exclusive applications that are not resolved by the end of the 60-day period are subject to auction.

58. *Amendments.* As with Phase 1, Phase 2 applicants may withdraw or amend their applications to avoid mutual exclusivity. In contrast to Phase 1, both major and minor amendments to Phase 2 applications are permitted, *see* Figures 4–6, and such amendments may be filed during the first-filed application's public notice period or the period for settlement of mutually exclusive applications described below. A major amendment to a pending application, however, will require a new public notice period during which the applicant would be subject to further mutually exclusive applications.

IV. Relicensed Area

A. Construction Requirement

59. Licensees of 700 MHz licenses acquired through the relicensing process will have one year from the date the new license is issued to complete construction, provide signal coverage, and offer service over 100% of the geographic area of the relicensed area. If the licensee fails to meet this construction requirement, its license will automatically terminate without Commission action and it will be ineligible to apply to provide service to that area at any future date. Unlike the KWYS rules, which provide that unserved area less than 50 square miles will be deemed "served" for purposes of determining a failing licensee's service area, the rules setting forth the construction requirements for relicensed area do not contain any provision for treating such smaller unserved portions of a licensee's service area as "served." Rather, § 27.14(j)(3) states, without exception, that the failure of a licensee of relicensed area to complete its construction and provide signal coverage and offer service over 100% of the geographic area of the new license area will result in the automatic termination of the license. Therefore, any portion of the relicensed area that remains unserved at the one-year construction deadline—even if less than 50 square miles—will result in failure to satisfy this requirement and application of the penalty for failure.

1. Modifications

60. In the *700 MHz Relicensing Comment PN*, the Commission proposed that licensees would not be permitted to modify the license to reduce the licensed area before meeting the one-

year construction benchmark, as this would effectively avoid the 100% geographic coverage requirement by reducing the area they must cover.

61. One commenter asks the Bureau to apply a *de minimis* standard to reductions in license area before the one-year construction benchmark and to permit license modifications as long as the modification does not result in a reduction of greater than 10% in the size of the licensed area. This commenter asserts that the "vagaries of RF radiation" make it difficult for a licensee to precisely duplicate its predicted coverage. The commenter argues that permitting 10% license reductions "will balance the occasional need of a licensee to reduce the size of its coverage area by a *de minimis* amount to account for real world technical impediments against the Bureau's desire to deter manipulation of its relicensing process." None of the commenting parties filed in response to this request.

62. The Commission rejects this commenter's proposal, as it would permit a licensee to construct only 90% of the area originally authorized through relicensing without losing the license. Such a proposal is inconsistent with the 100% construction requirement that the Commission adopted and outside the scope of the Bureau's delegated authority. The Commission provided applicants with the flexibility to select whatever size of available unserved areas they choose, and applicants can take into account the variations in real world signal propagation when determining the area they seek to license.

63. Therefore, as proposed, the Commission will deem any modification to reduce the license area of a license acquired through the relicensing process as a failure to satisfy the 100% construction requirement. Such a failure will result in automatic termination of the license and a permanent bar on the licensee, including any entities that would be barred as a result of their relationship to the former licensee, from applying to serve that area at any future date.

2. Assignments

64. In the *700 MHz Relicensing Comment PN*, we proposed that licensees would be permitted to file applications to assign licenses acquired through relicensing (including requests to partition and disaggregate) only after they have demonstrated that they have met the construction benchmark. The Commission observed that, while the Bureau believes this procedure for assignment would best promote

administrative efficiency, we would consider waivers for larger assignment transactions on a case-by-case basis.

65. One commenter objects to the Bureau's proposal to only allow assignment applications after a licensee has satisfied its construction requirement. It argues that the Bureau should permit such assignments "so long as the successor entities are bound by the same 100% coverage requirement at the end of the one-year construction deadline." None of the commenting parties filed in response to this request.

66. The Commission agrees that this commenter's proposal would increase the flexibility of the Commission's proposed approach without creating unnecessary mutually exclusive applications filed against those of applicants that actually intend to serve those areas. In the *WRS Renewal Second Report and Order* (82 FR 41531, Sept. 1, 2017), the Commission adopted a requirement that parties to a partition or disaggregation agreement either: (1) Each certify that they will independently meet the construction requirements; or (2) agree to share the responsibility for satisfying the construction requirements.¹⁸ Under the Commission's construction rules, however, in the case of a full assignment, only the assignee, not the assignor, is responsible for satisfying the one-year construction benchmark.

67. To provide the flexibility sought, while at the same time preventing potential gaming of the relicensing process, the Commission will permit assignment of relicensed area (including through partition or disaggregation) before satisfying the one-year construction benchmark subject to two restrictions.

68. First, the license may not be assigned to any parties that would have been barred, given their relationship to the assignor, from applying to serve the relicensed area during the phase of relicensing in which the assignor acquired it. For example, a party that would have been barred from applying during Phase 1 for a particular area could not acquire that area through assignment if the current licensee acquired it during Phase 1, but that

¹⁸ *WRS Renewal Second Report and Order*, 2017 WL 3381028 at *23–28, paragraphs 74 through 89. The *WRS Renewal Second Report and Order* adopted a unified framework for construction, renewal, and service continuity rules for flexible-use geographic licenses in the Wireless Radio Services. While the rule the Commission adopted to address construction obligations resulting from partition and disaggregation—47 CFR 1.950—is pending approval from the Office of Management and Budget, the Commission anticipates this rule will take effect before commencement of the 700 MHz relicensing process.

same party could acquire it through assignment from a licensee who acquired it during Phase 2 (when the party would no longer have been barred from applying to serve the area). A party who is permanently barred from applying to serve an area due to failure to satisfy the construction requirements for relicensed area would be barred from acquiring that area through assignment in any case, irrespective of whether the current licensee acquired it during Phase 1 or 2.

69. Second, if the one-year construction benchmark is not satisfied with respect to the entire relicensed area, the penalty for failure, *i.e.*, automatic termination of the license and a permanent bar from serving that area at any future date, will apply to all parties to the transaction, including any entities that would be barred as a result of their relationship to either party to the transaction, regardless of whether the assignment is a full assignment, partition, or disaggregation.

Example 1: A, a licensee of relicensed area, assigns the entire license to B. B fails to satisfy the one-year 100% construction benchmark. The entire relicensed area, including any portion that B is serving, automatically terminates. Both A and B, including any entities that would be barred because of their relationship to A or B, are permanently barred from applying to serve that area at any future date.

Example 2: A, a licensee of relicensed area, partitions half of the license to B. B builds 100% of its half of the license by the one-year construction deadline, but A does not. The entire license area as originally licensed through the relicensing process, including any portion that A or B is serving, terminates automatically. Both A and B, including any entities that would be barred because of their relationship to A or B, are permanently barred from applying to serve the entire area as originally acquired through relicensing at any future date.

Example 3: A, a licensee of relicensed area, disaggregates half of its licensed spectrum to B. A and B must either individually or collectively offer services that provide combined coverage to 100% of the geographic area. Regardless of whether the licensees choose to meet the construction benchmark individually or collectively, if they fail to provide coverage to 100% of the geographic area as of the one-year deadline, both licenses will automatically terminate and both A and B, including any entities that would be barred as a result of their relationship to A or B, will be permanently barred from applying to serve that area at any future date.

70. By eliminating any potential secondary market for assignments to barred parties and holding the assignor, as well as the assignee, accountable for failure to satisfy the construction requirement, the Commission finds this approach will adequately discourage

gaming and speculation during the relicensing process. The Commission will require assignment applications filed before the one-year construction benchmark to include the same Ownership Certification regarding non-barred status that applicants are required to file when applying for available unserved areas in the relicensing process.

3. Cancellation

71. In the *700 MHz Relicensing Comment PN*, the Commission proposed to treat any cancellation of a license before meeting the 100% coverage requirement as a failure to satisfy the performance obligations. No party objected to this proposal. The Commission adopts this proposal, based upon the rationale described in the public notice—namely, that it provides an incentive for rapid deployment of service on relicensed spectrum. Therefore, the Commission will deem the cancellation of a license before meeting the one-year construction benchmark as failure to satisfy the required performance obligations. Consequently, the cancelling licensee, including any entities that would be barred because of their relationship to the cancelling licensee, will be ineligible to apply to serve any portion of the cancelled license area at any future date.

B. Construction Showing

72. Licensees must demonstrate compliance with the one-year construction benchmark by filing a construction notification with the Commission no later than 15 days after the relevant deadline demonstrating that they have met the construction requirements. To implement this requirement, the Commission proposed that, at the one-year construction deadline, licensees would be required to demonstrate that they provide signal coverage and offer service to 100% of the geographic area by filing either a 40 dBµV/m smooth contour or an alternative smooth contour. No commenters responded directly to this proposal. Nonetheless, the Commission adjusts our final approach in light of the changes we made above to the required KWYS filing service area demonstration.

73. Accordingly, licensees must demonstrate compliance with the 100% geographic coverage requirement by filing a service area demonstration that reflects their actual service in the license area, based on the methodology the licensee deems to best represent the areas in which it provides an actual service. The Commission expects that licensees will have used due diligence

and made necessary inquiries to ensure their ability to meet our 100% geographic coverage requirement before filing their application for unserved areas. Demonstrations of service area should reflect the signal strength that the licensee represents to its customers as service, and licensees should be prepared to defend the methodology used. The Commission cautions licensees that the Bureau will look critically at showings that materially reduce the signal level at the boundary such that the demonstration might artificially inflate the licensee's coverage area. While licensees are permitted to file construction demonstrations that reflect the signal levels they deem to represent the services they provide, those signal levels may not result in a field strength that exceeds 40 dBµV/m at the license boundary, as licensees of relicensed area will be bound by the same license boundary field strength limit applicable to all 700 MHz licensees. As with the KWYS showing, the Commission will require that construction demonstrations be filed using the map and filing formats described herein.

74. The Bureau places construction notifications on public notice and reviews each notification and any related comments before making a determination regarding the notification. Interested parties are permitted to file comments, which must be filed no later than 30 days after the public notice release date. After examining the construction notifications and public comments, the Bureau determines whether each licensee has made a sufficient showing to satisfy the one-year construction benchmark and retain its license.

75. If a licensee does not file either a request for extension of time before the construction deadline, or the required construction notification within 15 days after the construction deadline, as required by § 1.946 of the Commission's rules, the Commission presumes that the license has not been constructed, or the coverage requirement has not been met. As a result, the Bureau places such licenses in "Termination Pending" status and lists the license on the Weekly Termination Pending Public Notice. The Bureau also notifies the licensee by letter that, if it has met its construction requirement, it has 30 days from the date of that public notice to file a petition for reconsideration showing that it timely met the construction deadline. If the licensee does not file a petition for reconsideration within the 30-day reconsideration period showing timely construction, the Bureau updates its licensing records in ULS to show the

license as “Terminated,” effective as of the construction deadline. The license is also listed on a weekly public notice reflecting its status as changed to Terminated. The former licensee of the terminated license, including any entities that would be barred because of their relationship to the former licensee, will also be permanently barred from applying to serve the terminated license area at any future date.

C. Unserved Relicensed Area

76. If a licensee of relicensed area fails to satisfy the one-year 100% construction requirement, the entire relicensed area returns to the Commission’s inventory for relicensing. Such area would enter relicensing via Phase 2 status, as there would be no applicable Phase 1 bar such that the 30-day Phase 1 filing window is necessary. Except for the barred parties and related entities, interested parties are permitted to begin filing applications to serve the area on the 30th day after the release of the public notice listing the license as terminated.

V. Procedural Matters

77. *Regulatory Flexibility Analysis.* As required by the Regulatory Flexibility Act of 1980 (RFA), the Commission prepared an Initial Regulatory Flexibility Analysis (IRFA) in connection with the *700 MHz Further Notice*¹⁹ and a Final Regulatory Flexibility Analysis (FRFA) in connection with the *700 MHz Second Report and Order*.²⁰ While no commenter directly responded to the IRFA, the FRFA addressed concerns about the impact on small business of the KWYS rules. The IRFA and FRFA set forth the need for and objectives of the Commission’s rules for the KWYS rules; the legal basis for those rules, a description and estimate of the number of small entities to which the rules apply; a description of projected reporting, recordkeeping, and other compliance requirements for small entities; steps taken to minimize the significant economic impact on small entities and significant alternatives considered; and a statement that there are no federal rules that may duplicate, overlap, or conflict with the rules. While the proposals in the *700 MHz Relicensing Comment PN* did not change any of those descriptions, the Commission sought comment on whether the implementation of our

proposals might affect either the IRFA or the FRFA. No comments were filed in response to the *700 MHz Relicensing Comment PN* with respect to potential impacts on the IRFA or the FRFA, and the Commission concluded that the implementation of its proposals herein has had no further impact beyond that identified in the IRFA and FRFA.

78. *Paperwork Reduction Act.* This document does not contain proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

79. *Congressional Review Act.* The Commission will send a copy of this Public Notice to Congress and the Government Accountability office, pursuant to the Congressional Review Act. *See* 5 U.S.C. 801(a)(1)(A).

80. This document shall become effective thirty (30) days after the date of publication in the **Federal Register**.

VI. Authority

81. Action taken under delegated authority pursuant to §§ 0.131 and 0.331 of the Commission’s rules, 47 CFR 0.131, 0.331, and *Service Rules for 698–746, 747–762, and 777–792 MHz Bands et al.*, Second Report and Order, 22 FCC Rcd 15289 (2007).

By the Chief, Mobility Division, Wireless Telecommunications Bureau,
Federal Communications Commission.

Katherine Harris,

Deputy Chief, Mobility Division, Wireless Telecommunications Bureau.

[FR Doc. 2019–04055 Filed 3–7–19; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CG Docket Nos. 13–24 and 03–123; FCC 19–11]

IP CTS Improvements and Program Management

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (FCC or Commission) expands the telecommunications relay service (TRS) User Registration Database (Database) that the Commission created for the

video relay service (VRS) program to encompass internet Protocol Captioned Telephone Service (IP CTS). Including IP CTS user registration information in the Database will help the program verify the identity of IP CTS users, audit and review IP CTS provider practices, substantiate provider compensation requests, and improve program management.

DATES:

Effective Date: These rules are effective April 8, 2019.

Compliance Date: Compliance will not be required for § 64.611(j)(2) and §§ 64.615(a)(3) and (a)(5) of the Commission’s rules until after approval by the Office of Management and Budget (OMB). The Commission will publish a document in the **Federal Register** announcing that compliance date.

FOR FURTHER INFORMATION CONTACT:

Michael Scott, Consumer and Governmental Affairs Bureau, at (202) 418–1264, or email *Michael.Scott@fcc.gov*.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission’s *Misuse of internet Protocol (IP) Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order, document FCC 19–11, adopted on February 14, 2019, released on February 15, 2019, in CG Docket Nos. 03–123 and 13–24. The Commission previously sought comment on these issues in *Misuse of internet Protocol (IP) Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Difficulties*, published at 78 FR 54201, September 3, 2013 (*2013 IP CTS Reform FNPRM*). A Further Notice of Proposed Rulemaking (Further Notice) is contained in document FCC 19–11 and addresses additional issues concerning account identifiers, service for new users, and simplification of 911 call-handling for some forms of IP CTS. The Further Notice will be published elsewhere in the **Federal Register**. The full text of document FCC 19–11 will be available for public inspection and copying via the Commission’s Electronic Comment Filing System (ECFS), and during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street SW, Room CY–A257, Washington, DC 20554. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files,

¹⁹ *Service Rules for 698–746, 747–762, and 777–792 MHz Bands et al.*, Report and Order and Further Notice of Proposed Rulemaking, 22 FCC Rcd 8064, 8212 (2007) (*700 MHz Further Notice*).

²⁰ *700 MHz Second Report and Order*, 22 FCC Rcd at 15542.

audio format), send an email to fcc504@fcc.gov, or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice) or (202) 418-0432 (TTY).

Congressional Review Act

The Commission sent a copy of document FCC 19-11 to Congress and the Government Accountability Office pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A).

Final Paperwork Reduction Act of 1995 Analysis

The Report and Order in document FCC 19-11 contains modified information collection requirements, which are not effective until approval is obtained from OMB. The Commission, as part of its continuing effort to reduce paperwork burdens, will invite the general public to comment on these information collection requirements as required by the Paperwork Reduction Act (PRA) of 1995, Public Law 104-13. The Commission will publish a separate document in the **Federal Register** announcing approval of the information collection requirements. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, 44 U.S.C. 3506(c)(4), the Commission previously sought comment on how the Commission might “further reduce the information burden for small business concerns with fewer than 25 employees.” *2013 IP CTS Reform FNPRM*.

Synopsis

1. In 2013, the Commission directed the creation of a centralized system of user registration records, for initial application to VRS users and potential application to other forms of TRS. The core function of this Database is to enable the Commission to ensure that TRS is provided only to registered users whose eligibility has been established in accordance with program rules and whose identities have been verified based on uniform criteria. IP CTS, a form of TRS, allows individuals with hearing loss to both read captions and use their residual hearing to understand a telephone conversation.

2. The Commission amends its rules to require the integration of IP CTS into the TRS Database to better ensure accurate registration, verification, and validation of IP CTS users. By this action, the Commission takes further steps to ensure that TRS is made available “in the most efficient manner,” achieve consistency among internet-based TRS programs, and manage waste, fraud, and abuse risks. Expanding the Database to include IP

CTS is especially important in light of the ease and convenience of using this service—which can also facilitate its improper use—as well as the incentives and ability of providers to market this service to individuals who do not need it. These factors may be contributing to the exponential IP CTS growth in recent years and have the potential to cause future waste in the program. Database registration of IP CTS users will enable the administrator to conduct objective identity verification in accordance with uniform criteria, perform more effective auditing and review of IP CTS provider practices, and better substantiate the eligibility of IP CTS minutes submitted for compensation, e.g., by matching provider-submitted call detail records with records of registered and verified IP CTS users. In addition, creating a central registry of IP CTS users will improve program management by enabling the Commission to compile and analyze aggregate data on the total number of IP CTS users; the number of IP CTS providers, devices, and phone numbers associated with each user; the pace of turnover among registered users; and other important program statistics and trends that are necessary for the Commission’s effective and efficient implementation of the program.

3. Database registration and verification of IP CTS users is a straightforward prophylactic measure that is needed to safeguard the TRS Fund, whether or not the Commission has discovered waste, fraud, and abuse within this particular TRS program. The Commission is not required to wait for a major outbreak of fraud or abuse, such as occurred in two other TRS programs, before taking precautionary steps to prevent such harm from occurring in this program. The Commission has the authority and obligation to identify and improve programs that may be susceptible to waste, fraud, and abuse.

4. The rules the Commission adopts for IP CTS user data submission and verification largely parallel those in place for VRS. Although the two services differ in some respects, those differences do not warrant a substantially different approach to data submission. Therefore, with one exception, the data that the Commission now requires IP CTS providers to submit to the Database when registering users is substantially the same data that the Commission requires for VRS providers. Specifically, the Commission requires submission of a user’s full name; full residential address; telephone number; electronic serial number (ESN) of the user’s IP CTS device, the user’s log-in identification or email address, or another unique

identifier for the IP CTS user; last four digits of the user’s social security number or Tribal Identification number; date of birth; Registered Location (if applicable); IP CTS provider name; date of service initiation and (when applicable) termination; (for existing users only) the date on which the IP CTS user last placed an IP CTS call; and a digital copy of the user’s self-certification of eligibility.

5. The Commission also applies to IP CTS the same data submission and verification procedures used for VRS. These procedures are designed to ensure that IP CTS is used only by individuals who have registered with a provider, provided all required information, self-certified their eligibility to use the service, and had their identities verified in accordance with uniform criteria. Specifically, when the Database is ready to accept IP CTS user data, the Commission or CGB will release a public notice initiating a data submission period for uploading registration information on all current IP CTS users. By the end of the data submission period, IP CTS providers must have transmitted the required information to the Database, in a format prescribed by the Database administrator, for all IP CTS users in service as of the last day of the period. After the end of the period, an IP CTS provider will not be entitled to and shall not seek TRS Fund compensation for providing captioning service to any individual whose registration information has not been submitted to the Database. Further, an IP CTS provider shall not seek compensation for service to users who do not pass the Database identification verification check. However, if a provider submits the required information for an existing IP CTS user on or before the end of the data submission period, and verification by the Database has not been completed, the provider may request compensation for minutes of use incurred by such user after the deadline while verification is being completed, and the TRS Fund administrator will provide compensation for such minutes if the user is ultimately verified, including minutes of service that occur while an appeal of a user verification failure is pending.

6. For users who sign up for service after the end of the data submission period, similar procedures apply, except that providers must not register, or commence providing service to, such users until after the required registration data has been submitted *and* verified by the Database. The Commission expects that the administrator will coordinate with IP CTS providers, as it did with

VRS providers, including conducting trials and tests of procedures for submitting and verifying user registration data. The Commission directs the Managing Director to oversee the integration of IP CTS into the Database and to determine when the Database is ready to accept the submission of IP CTS user data.

7. If an IP CTS provider learns that a registered user is no longer eligible to receive service or a user makes a request to cancel service, the Commission requires the IP CTS provider to promptly request removal of such user's registration from the Database. An IP CTS provider shall not seek TRS Fund compensation for captioning service to any individual whose registration information has been removed from the Database, or for whom the provider obtains information that the individual is not eligible to use IP CTS.

8. *Data Privacy.* The Commission concludes that the same privacy safeguards that currently protect Database data on VRS users also will be sufficient to protect the privacy of IP CTS users. As is required of VRS providers, IP CTS providers must obtain users' prior consent to transmit to the Database the user information provided by the users to the providers, after notifying the users of the data to be submitted, the reason for disclosure, and the consequences of nondisclosure. The Commission also has incorporated privacy by design into its data collection, limiting the information collected from providers to what is necessary to identify and verify users, and destroying the parts of such information it does not need to maintain long term. For example, only the last four digits of registrants' Social Security numbers are collected, and these truncated numbers are destroyed upon verification. Further, the Database procedures strictly limit access to user registration data and include security safeguards to protect the proprietary and personal information in the database.

9. Further, as a federal information technology system, the Database is reviewed and evaluated annually to ensure compliance with Federal Information Security Modernization Act (FISMA) requirements. In addition to FISMA and Privacy Act requirements, as with other databases the Commission has created to manage its programs, this database must be operated in accordance with the National Institute of Standards and Technology (NIST) guidance for secure, encrypted methods for obtaining, transmitting, storing, and disposing of program beneficiary information and certified program information. The database also must

have subscriber notification procedures in the event of a breach that are compliant with Department of Homeland Security and guidance by the U.S. OMB. For the above reasons, and because there is no record evidence demonstrating their insufficiency, the Commission concludes that these layered privacy safeguards will be effective in protecting the personal data of registered IP CTS users—including senior citizens, whose personal data is maintained by many federal agencies.

10. *Costs.* The Commission concludes that the costs of integrating IP CTS users into the Database will be limited, as discussed below, and that they are reasonable in light of the importance of ensuring that IP CTS is immune from the waste, fraud, and abuse that have plagued the TRS program in the past. First, the Database is already built and has been activated for VRS. Thus, the administrator of this database already has established and tested procedures for collecting, organizing, verifying, protecting, and retrieving consumer registration data. While the database will increase in size, the Commission expects that additional staffing and technology needs are likely to be incremental, rather than substantial, for the TRS Fund. In addition, having thoroughly prepared for the activation of the Database for VRS, the Database administrator is now well acquainted with the planning and preparation processes, including trials and tests of procedures for submitting and verifying user registration data, that necessarily precede the activation of the Database for a new service. The experience gained in populating the Database with VRS user information will enable the Commission and the Database administrator to work efficiently with IP CTS providers to integrate IP CTS user data into the database through the existing administration processes.

11. The Commission expects that the costs incurred by IP CTS providers will be limited as well. IP CTS providers already have been collecting the user registration data that must be populated into the Database. Therefore, the Commission believes that additional expenses incurred by providers will be incurred primarily in contacting users to obtain consent for the submission of user data that already has been collected, uploading the data, and addressing any verification issues regarding such data. Further, IP CTS providers will not be requested to begin submitting user information to the database until the Managing Director determines that these processes have been effectively adapted for use by the IP CTS program and that there has been

sufficient advance coordination with IP CTS providers to enable full understanding of such processes.

12. The Commission anticipates that providers' compliance costs will be further limited because, in contrast to VRS, it appears that relatively few IP CTS users register with multiple providers. Moreover, the absence of a per-call validation query requirement for IP CTS will substantially reduce providers' compliance costs. Finally, IP CTS providers will benefit from the administrator's previous work in the VRS context to establish protocols, procedures, and safeguards that are now in place.

13. For all these reasons, the Commission concludes that IP CTS providers' one-time Database implementation costs will not be materially greater than those incurred by VRS providers. For IP CTS, the Commission estimates that the total cost of Database implementation over a three-year period is \$16–21 million. These Database implementation costs represent 0.6–0.8% of the \$2.676 billion total expenditures on IP CTS in a three-year period. The rules adopted here provide needed accountability, given the marketing incentives inherent in the service. It is reasonable to conclude that these implementation costs are justified by the benefits of adding IP CTS to the Database, in light of the history of waste, fraud, and abuse in the TRS program generally, and the fact that IP CTS is the most heavily used, fastest growing, and largest TRS program.

14. The Commission will allow IP CTS providers to seek recovery of costs associated with implementing the Database during the interim IP CTS compensation period, in accordance with the Commission's exogenous cost recovery guidelines for VRS. Under these guidelines, the general application of which to IP CTS is currently under consideration by the Commission, well-documented provider costs resulting from new TRS requirements are recoverable if they (1) belong to recoverable cost categories, (2) are new costs not factored into the rates for the 2018–19 and 2019–20 TRS Fund years, and (3) if unrecovered may cause a provider's current allowable-expenses-plus-operating margin to exceed its IP CTS revenues. Database implementation costs, especially when incurred by smaller providers, may qualify for reimbursement under these guidelines, as they were not considered when the interim IP CTS compensation rates were determined. Although the Commission has yet to determine whether the VRS exogenous cost recovery guidelines should be generally applicable to IP

CTS, the Commission will allow Database cost recovery in accordance with these guidelines during the interim compensation period in order to ensure that costs imposed by these new regulatory requirements are sufficiently addressed in provider compensation. This interim cost recovery measure will remain in effect until June 30, 2020, the end of the interim compensation period, or until a new IP CTS compensation rate becomes effective, whichever is earlier.

15. *Differences in the Database Rules Applicable to IP CTS and VRS.* The Commission makes the following changes in the Database rules to address issues that are unique to IP CTS and to apply lessons learned in activating the Database for VRS. First, because the record indicates that telephone numbers alone do not uniquely identify IP CTS users, the Commission amends its rules to provide that for IP CTS, the “necessary information for each registered user” submitted to the Database shall include a unique account identifier, such as the electronic serial number of any device provided to the user, the user’s log-in ID, or an email address.

16. Second, for registered users of IP CTS who are minors, the Commission amends its rules to clarify that the self-certification of eligibility must be signed on behalf of the minor by the minor user’s parent or legal guardian, and, in addition to submitting all the registration data required for other users, the provider must include the name and (if different) address of that parent or legal guardian.

17. Third, for IP CTS, the Commission will allow a one-year data submission period. The Commission makes this change because the IP CTS user population appears to be larger than the number of VRS users and has a disproportionate number of senior citizens, many of whom are more likely to require assistance from family members or others in providing written consent for the submission of information to the Database, and in providing supplemental information to the extent it is needed to complete verification. A one-year window will provide an ample period of time within which to complete the data submission process, and the Commission does not anticipate extending it. In the event that a provider is experiencing unusual difficulty in collecting user consents or otherwise preparing to comply, and finds that it needs to seek a waiver of the deadline, the Commission expects that the provider will make such a request, with a detailed showing and justification, no later than 120 days

before the end of the data submission period.

18. Fourth, the Commission does not apply to IP CTS the per-call validation requirement of § 64.615(a) of the rules. Unlike in VRS, there is no dial-around calling in IP CTS, and so there is less need to have a provider query a central database in order to validate an IP CTS call made by a user who is not registered with that provider. Further, because IP CTS providers usually do not assign telephone numbers to registered users and often do not control the connection of calls, a requirement to query the Database for each call could pose practical difficulties for IP CTS that are not present for VRS.

19. Under the rules the Commission adopts in this Report and Order, an IP CTS provider is not entitled to and shall not seek compensation for service to, users whose registration data has not been submitted to the Database, has not passed the Database identification verification check, or has been removed from the Database. Thus, as a matter of maintaining compliance with these requirements, it will be in the interest of an IP CTS provider, before requesting compensation for any call, to check its own records and take any other steps it deems necessary to confirm that the user’s registration data was submitted to and entered in (and not removed from) the Database prior to the call. The Commission does not find that there is a need to dictate the specific timing or procedure by which an IP CTS provider confirms compliance with these rules. Accordingly, IP CTS providers will not be required to send a specific call validation query to the Database or the TRS Numbering Directory at the beginning of each call.

20. Fifth, the Commission adopts an exception to the registration and verification requirements, to allow IP CTS providers to be compensated for captioning calls for users whose data has not been entered in the Database when such calls are made to or from temporary, public devices set up in emergency shelters. The Commission takes this step to ensure that users with hearing loss will continue to have access to telephone communications devices during and in the aftermath of natural disasters and other emergencies. However, IP CTS providers must register such devices in the Database before commencing service to such devices, by providing all information reasonably requested by the Database administrator, including the telephone number and location of the device. When service for such a device is initiated and terminated, the IP CTS provider must transmit the dates of

activation and termination. Before requesting Fund compensation for calls involving such a device, the provider must check its own records to validate that the device was registered with the Database prior to the call.

Final Regulatory Flexibility Analysis

21. As required by the Regulatory Flexibility Act of 1980 as amended (RFA), the Commission incorporated an Initial Regulatory Flexibility Analysis (IRFA) into the *2013 IP CTS Reform FNPRM*. The Commission sought written public comment on the proposals in the *2013 IP CTS Reform FNPRM*, including comment on the IRFA. No comments were received in response to the IRFA.

Need For, and Objectives of, the Rules

22. Document FCC 19–11 adopts rule changes to facilitate the Commission’s efforts to reduce waste, fraud, and abuse and improve its ability to efficiently manage the IP CTS program by requiring IP CTS providers to (1) submit IP CTS user registration information to the TRS Database so that the Database administrator can verify IP CTS users; and (2) obtain and keep affirmative acknowledgement by every registered IP CTS user of the user’s consent to the IP CTS provider to transmit such registration information to the Database.

23. Document FCC 19–11 also adopts rule changes providing that TRS Fund compensation may be paid only for IP CTS provided to users whose registration data has been submitted to and verified by the Database administrator; and that, when users are no longer eligible for or request cancellation of service, the IP CTS provider must remove the user’s information from its database and notify the Database administrator of such removal.

Summary of Significant Issues Raised by Public Comments in Response to the IRFA

24. No comments were filed in response to the IRFA.

Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration

25. The Chief Counsel for Advocacy of the Small Business Administration (SBA) did not file any comments in response to the proposed rules in this proceeding.

Small Entities Impacted

26. The rules adopted in Document FCC 19–11 will affect obligations of IP CTS providers. These services can be included within the broad economic

category of All Other Telecommunications.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

27. The rules on submitting user registration data to the Database will require IP CTS providers to submit information that they are currently required to collect from IP CTS users. IP CTS providers will also be required to obtain and keep affirmative acknowledgement by every registered IP CTS user of the user's consent to the IP CTS provider to transmit such registration information to the Database. The Commission has primarily aligned these reporting and recordkeeping requirements with similar requirements currently applicable to VRS providers. However, the Commission makes one addition to the Database registration requirements to require that unique account identifiers, such as the electronic serial numbers of user devices, users' log-in identifications, or email addresses, be included in the user registration information submitted to the Database administrator. Also, before commencing service to temporary, public IP CTS devices set up in emergency shelters, IP CTS providers must provide all information reasonably requested by the Database administrator, including the telephone number and location of the device, and an indication that the device is located in a public emergency shelter.

28. In addition, IP CTS providers are required to keep their registration databases current and notify the Database administrator of any users removed from their databases.

Steps Taken To Minimize Significant Impact on Small Entities, and Significant Alternatives Considered

29. The rules requiring IP CTS providers to submit registration data to the Database will have only a minimal effect on small entities because the required data is already maintained by the providers. The increased burdens of obtaining consent from IP CTS users to submit the data to the Database, the retention of such information, and the submission process itself are minor as compared to the benefit of having the Database administrator verify the IP CTS users and relieving IP CTS providers of that obligation. Moreover, the order permits providers to seek reimbursement from the Interstate TRS Fund for exogenous costs associated with the submission of registration data to the Database until such time as the Commission adopts rates that take into consideration the costs associated with

such submissions. The rules also require providers to notify the Database administrator of any users removed from their databases. These requirements are similar to the requirements placed on VRS providers.

30. Compared to the initial proposal, which also would have required IP CTS providers to validate each call by querying the Database, these requirements are more narrowly tailored to help the Commission identify and evaluate risks, monitor compliance with program rules, and minimize waste, fraud, and abuse in the IP CTS program and will not be burdensome because providers are already required to keep their databases current.

Ordering Clauses

Pursuant to sections 201 and 225 of the Communications Act of 1934, as amended, 47 U.S.C. 201, 225, document FCC 19–11 is *adopted*, and Part 64 of Title 47 is amended.

List of Subjects in 47 CFR Part 64

Individuals with disabilities, Telecommunications, Telecommunications relay services.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer, Office of the Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 64 as follows:

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

■ 1. The authority citation for part 64 is revised to read as follows:

Authority: 47 U.S.C. 154, 201, 202, 217, 218, 220, 222, 225, 226, 227, 228, 251(a), 251(e), 254(k), 262, 403(b)(2)(B), (c), 616, 620, 1401–1473, unless otherwise noted.

■ 2. Amend § 64.601 by revising paragraphs (a)(30) and (a)(31) to read as follows:

§ 64.601 Definitions and provisions of general applicability.

(a) * * *

(30) *Registered internet-based TRS user.* An individual who has registered with a VRS, IP Relay, or IP CTS provider as described in § 64.611.

(31) *Registered Location.* The most recent information obtained by a VRS, IP Relay, or IP CTS provider that identifies the physical location of an end user.

* * * * *

■ 3. Amend § 64.604 by removing and reserving paragraph (c)(9) to read as follows:

§ 64.604 Mandatory minimum standards.

* * * * *

(c) * * *

(9) [Reserved]

* * * * *

■ 4. Amend § 64.611 by revising paragraph (a)(4), adding and reserving paragraphs (h) and (i), and adding paragraphs (j) and (k) to read as follows:

§ 64.611 Internet-based TRS registration.

(a) * * *

(4) *TRS User Registration Database Information Requirements for VRS.* Each VRS provider shall collect and transmit to the TRS User Registration Database, in a format prescribed by the administrator of the TRS User Registration Database, the following information for each of its new and existing registered internet-based TRS users: Full name; address; ten-digit telephone number assigned in the TRS numbering directory; last four digits of the social security number or Tribal Identification number, if the registered internet-based TRS user is a member of a Tribal nation and does not have a social security number; date of birth; Registered Location; VRS provider name and dates of service initiation and termination; a digital copy of the user's self-certification of eligibility for VRS and the date obtained by the provider; the date on which the user's identification was verified; and (for existing users only) the date on which the registered internet-based TRS user last placed a point-to-point or relay call.

* * * * *

(h) [Reserved]

(i) [Reserved]

(j)(1) *IP CTS Registration and Certification Requirements.*

(i) IP CTS providers must first obtain the following registration information from each consumer prior to requesting compensation from the TRS Fund for service provided to the consumer: The consumer's full name, date of birth, last four digits of the consumer's social security number, full residential address, and telephone number.

(ii) [Reserved]

(iii) [Reserved]

(iv) *Self-certification prior to August 28, 2014.* IP CTS providers, in order to be eligible to receive compensation from the TRS Fund for providing IP CTS, also must first obtain a written certification from the consumer, and if obtained prior to August 28, 2014, such written certification shall attest that the consumer needs IP CTS to communicate

in a manner that is functionally equivalent to the ability of a hearing individual to communicate using voice communication services. The certification must include the consumer's certification that:

(A) The consumer has a hearing loss that necessitates IP CTS to communicate in a manner that is functionally equivalent to communication by conventional voice telephone users;

(B) The consumer understands that the captioning service is provided by a live communications assistant; and

(C) The consumer understands that the cost of IP CTS is funded by the TRS Fund.

(v) *Self-certification on or after August 28, 2014.* IP CTS providers must also first obtain from each consumer prior to requesting compensation from the TRS Fund for the consumer, a written certification from the consumer, and if obtained on or after August 28, 2014, such certification shall state that:

(A) The consumer has a hearing loss that necessitates use of captioned telephone service;

(B) The consumer understands that the captioning on captioned telephone service is provided by a live communications assistant who listens to the other party on the line and provides the text on the captioned phone;

(C) The consumer understands that the cost of captioning each internet protocol captioned telephone call is funded through a federal program; and

(D) The consumer will not permit, to the best of the consumer's ability, persons who have not registered to use internet protocol captioned telephone service to make captioned telephone calls on the consumer's registered IP captioned telephone service or device.

(vi) The certification required by paragraphs (j)(1)(iv) and (v) of this section must be made on a form separate from any other agreement or form, and must include a separate consumer signature specific to the certification. Beginning on August 28, 2014, such certification shall be made under penalty of perjury. For purposes of this rule, an electronic signature, defined by the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001 *et seq.*, as an electronic sound, symbol, or process, attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign the record, has the same legal effect as a written signature.

(vii) *Third-party certification prior to August 28, 2014.* Where IP CTS equipment is or has been obtained by a consumer from an IP CTS provider, directly or indirectly, at no charge or for less than \$75 and the consumer was registered in accordance with the requirements of paragraph (j)(1) of this section prior to August 28, 2014, the IP CTS provider must also obtain from each consumer prior to requesting compensation from the TRS Fund for the consumer, written certification provided and signed by an independent third-party professional, except as provided in paragraph (j)(1)(xi) of this section.

(viii) To comply with paragraph (j)(1)(vii) of this section, the independent professional providing certification must:

(A) Be qualified to evaluate an individual's hearing loss in accordance with applicable professional standards, and may include, but are not limited to, community-based social service providers, hearing related professionals, vocational rehabilitation counselors, occupational therapists, social workers, educators, audiologists, speech pathologists, hearing instrument specialists, and doctors, nurses and other medical or health professionals;

(B) Provide his or her name, title, and contact information, including address, telephone number, and email address; and

(C) Certify in writing that the IP CTS user is an individual with hearing loss who needs IP CTS to communicate in a manner that is functionally equivalent to telephone service experienced by individuals without hearing disabilities.

(ix) *Third-party certification on or after August 28, 2014.* Where IP CTS equipment is or has been obtained by a consumer from an IP CTS provider, directly or indirectly, at no charge or for less than \$75, the consumer (in cases where the equipment was obtained directly from the IP CTS provider) has not subsequently paid \$75 to the IP CTS provider for the equipment prior to the date the consumer is registered to use IP CTS, and the consumer is registered in accordance with the requirements of paragraph (j)(1) of this section on or after August 28, 2014, the IP CTS provider must also, prior to requesting compensation from the TRS Fund for service to the consumer, obtain from each consumer written certification provided and signed by an independent third-party professional, except as

provided in paragraph (j)(1)(xi) of this section.

(x) To comply with paragraph (j)(1)(ix) of this section, the independent third-party professional providing certification must:

(A) Be qualified to evaluate an individual's hearing loss in accordance with applicable professional standards, and must be either a physician, audiologist, or other hearing related professional. Such professional shall not have been referred to the IP CTS user, either directly or indirectly, by any provider of TRS or any officer, director, partner, employee, agent, subcontractor, or sponsoring organization or entity (collectively "affiliate") of any TRS provider. Nor shall the third party professional making such certification have any business, family or social relationship with the TRS provider or any affiliate of the TRS provider from which the consumer is receiving or will receive service.

(B) Provide his or her name, title, and contact information, including address, telephone number, and email address.

(C) Certify in writing, under penalty of perjury, that the IP CTS user is an individual with hearing loss that necessitates use of captioned telephone service and that the third party professional understands that the captioning on captioned telephone service is provided by a live communications assistant and is funded through a federal program.

(xi) In instances where the consumer has obtained IP CTS equipment from a local, state, or federal governmental program, the consumer may present documentation to the IP CTS provider demonstrating that the equipment was obtained through one of these programs, in lieu of providing an independent, third-party certification under paragraphs (j)(1)(vii) and (ix) of this section.

(xii) Each IP CTS provider shall maintain records of any registration and certification information for a period of at least five years after the consumer ceases to obtain service from the provider and shall maintain the confidentiality of such registration and certification information, and may not disclose such registration and certification information or the content of such registration and certification information except as required by law or regulation.

(xiii) [Reserved]

(2) *TRS User Registration Database Information for IP CTS.* (i) Each IP CTS Provider shall collect and transmit to the TRS User Registration Database, in a format prescribed by the administrator of the TRS User Registration Database, the following information for each of its new and existing registered IP CTS users:

- (A) Full name;
- (B) Full residential address;
- (C) Telephone number;
- (D) A unique identifier such as the electronic serial number (ESN) of the user's IP CTS device, the user's log-in identification, or the user's email address;
- (E) The last four digits of the user's social security number or Tribal Identification number (or alternative documentation, if such documentation is permitted by and has been collected pursuant to *Misuse of internet Protocol (IP) Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Order, 30 FCC Rcd 1093 (CGB 2015));
- (F) Date of birth;
- (G) Registered Location (if applicable);
- (H) IP CTS provider name;
- (I) Date of service initiation and (when applicable) termination;
- (J) A digital copy of the user's self-certification of eligibility for IP CTS and the date obtained by the provider; and
- (K) For existing users only the date on which the IP CTS user last placed an IP CTS call.

(ii) Each IP CTS provider shall obtain, from each new and existing registered IP CTS user, consent to transmit the registered IP CTS user's information to the TRS User Registration Database. Prior to obtaining such consent, the IP CTS provider shall describe to the registered IP CTS user, using clear, easily understood language, the specific information obtained by the IP CTS provider from the user that is to be transmitted, and inform the user that the information is being transmitted to the TRS User Registration Database to ensure proper administration of the TRS program, and that failure to provide consent will result in the registered IP CTS user being denied service. IP CTS providers shall keep a record of affirmative acknowledgment of such consent by every registered IP CTS user.

(iii) *Registration of Emergency Shelter Devices.* An IP CTS provider may seek and receive TRS Fund compensation for the provision of captioning service to users of a temporary, public IP CTS device set up in an emergency shelter, provided that, before commencing service to such a device, the IP CTS

provider collects, maintains in its registration records, and submits to the TRS User Registration Database all information reasonably requested by the administrator, including the telephone number and location of the device. IP CTS providers shall remove the device's registration information from the Database when service for such a device is terminated.

(iv) By the date of initiation of service to an IP CTS user or device, or one year after notice from the Commission that the TRS User Registration Database is ready to accept such information, whichever is later, IP CTS providers shall submit to the TRS User Registration Database the registration information required by paragraph (j)(2)(i) or (iii) of this section. Calls from or to registered IP CTS users or devices whose registration information has not been populated in the TRS User Registration Database by the applicable date shall not be compensable, and an IP CTS provider shall not seek TRS Fund compensation for such calls.

(v) When registering a user who is transferring service from another IP CTS provider, IP CTS providers shall obtain and submit a digital copy of a user's self-certification of eligibility if a query of the TRS User Registration Database shows a properly executed certification has not been filed.

(3) An IP CTS provider shall not seek TRS Fund compensation for providing captioning service to any individual or device if the registration information for such individual or device has been removed from the TRS User Registration Database, or if the provider obtains information that the individual or device is not eligible to receive IP CTS.

(k) *Compliance date.* Paragraph (j)(2) of this section contains new or modified information-collection and recordkeeping requirements adopted in FCC 19–11. Compliance with these information-collection and recordkeeping requirements will not be required until after approval by the Office of Management and Budget. The Commission will publish a document in the **Federal Register** announcing that compliance date and revising this paragraph accordingly.

■ 5. Amend § 64.615 by revising paragraphs (a)(3), (a)(4), and (a)(5) and adding paragraph (c) to read as follows:

§ 64.615 TRS User Registration Database and administrator.

(a) * * *

(3) *Data integrity.* (i) Each VRS and IP CTS provider shall request that the administrator of the TRS User Registration Database remove from the TRS User Registration Database user

information for any registered user or hearing point-to-point user:

(A) Who informs its default VRS provider or its IP CTS provider that it no longer wants use of a ten-digit number for TRS or (in the case of a hearing point-to-point video user) for point-to-point video service; or

(B) For whom the provider obtains information that the user is not eligible to use the service.

(ii) The administrator of the TRS User Registration Database shall remove the data of:

(A) Any VRS user that has neither placed nor received a VRS or point-to-point call in a one-year period; and

(B) Any user for which a VRS or IP CTS provider makes a request under paragraph (a)(3)(i) of this section.

(4) A VRS or IP CTS provider may query the TRS User Registration Database only for the purposes provided in this subpart, and to determine whether information with respect to its registered users already in the database is correct and complete.

(5) *User verification.* (i) The TRS User Registration Database shall have the capability of performing an identification verification check when a VRS provider, IP CTS provider, or other party submits a query to the database about an existing or potential user.

(ii) VRS and IP CTS providers shall not register individuals who do not pass the identification verification check conducted through the TRS User Registration Database.

(iii) VRS providers shall not seek compensation for calls placed by individuals that do not pass the identification verification check conducted through the TRS User Registration Database.

(iv) IP CTS providers shall not seek compensation for calls placed to or from individuals that do not pass the identification verification check conducted through the TRS User Registration Database.

* * * * *

(c) *Compliance date.* Paragraphs (a)(3) and (a)(5) of this section contain new or modified information-collection and recordkeeping requirements adopted in FCC 19–11. Compliance with these information-collection and recordkeeping requirements will not be required until after approval by the Office of Management and Budget. The Commission will publish a document in the **Federal Register** announcing that compliance date and revising this paragraph accordingly.

[FR Doc. 2019–04041 Filed 3–7–19; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION**Federal Motor Carrier Safety Administration****49 CFR Parts 383 and 384**

[Docket No. FMCSA–2016–0429]

Commercial Driver's License Standards, Requirements and Penalties; Regulatory Guidance**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.**ACTION:** Notification of updated regulatory guidance; request for comments.

SUMMARY: FMCSA revises certain regulatory guidance concerning the “Commercial Driver’s License Standards; Requirements and Penalties” and “State Compliance with Commercial Driver’s License Program” rules. FMCSA seeks comment specifically on the deletion of 47 FMCSA guidance statements because: The rule is clear and further guidance is not needed; the deleted guidance was unclear; the deleted guidance is duplicative of other guidance statements; or the guidance is obsolete due to rulemakings completed since the guidance was issued. In addition, other guidance statements were revised for clarity and reorganized so that like content is grouped together. While this guidance is effective immediately, FMCSA is also seeking comments on the revisions to this guidance regarding commercial driver’s license standards, requirements, and penalties and may issue additional changes if comments demonstrate a need. It is noted, however, that the Commercial Driver’s License (CDL) regulations are not amended.

DATES: *Effective Date:* The updated guidance is effective on March 7, 2019.*Comment Date:* Comments must be received on or before May 7, 2019.**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA–2016–0429 using any of the following methods:*Federal eRulemaking Portal:* Go to www.regulations.gov. Follow the on-line instructions for submitting comments.*Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 0590–0001.*Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5

p.m., ET, Monday through Friday, except Federal holidays.

Fax: 1–202–493–2251.

Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to www.regulations.gov, including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to www.regulations.gov at any time or visit Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The on-line Federal document management system is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its guidance process. 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.

FOR FURTHER INFORMATION CONTACT: Mr. Selden Fritschner, CDL Division, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590, phone (202) 366–0677, email Selden.Fritschner@dot.gov.

SUPPLEMENTARY INFORMATION:**Background**

The Federal Motor Carrier Safety Regulations (FMCSRs) are located in chapter III of subtitle B of title 49 of the Code of Federal Regulations (49 CFR parts 350 through 399). FMCSA employs regulatory guidance statements to explain how the Agency applies particular regulations to specific facts. A guidance statement does not alter the meaning of an FMCSR. Guidance statements are provided in question-and-answer format; statements interpreting the same regulation are numbered (e.g., “Section 395.8, Question 7”).

The Agency notifies the public of regulatory guidance through publication in the **Federal Register**. Over the years, the Federal Highway Administration (FHWA), FMCSA’s predecessor agency,

and FMCSA have published regulatory guidance on numerous occasions interpreting many parts of the FMCSRs. In 1997, FHWA published a comprehensive compilation of its regulatory guidance (62 FR 16370, April 4, 1997). The Agency stated that regulatory guidance issued prior to that date was superseded to the extent it was inconsistent with the compilation. Agency guidance published since then has been limited to specific topics that amend or supplement the 1997 document.

Section 5203 of the Fixing America’s Surface Transportation Act (Pub. L. 114–94, 129 Stat. 1312, 1535, Dec. 4, 2015) (FAST Act), titled “Guidance,” requires that each guidance document issued by FMCSA have a date of issuance or a date of revision, as applicable, and include the name and contact information of a point of contact at the Agency who can respond to questions regarding the guidance. In addition, this section of the FAST Act requires that each guidance document issued or revised by FMCSA be published on a publicly accessible internet website of the Department on the date of issuance or revision. As a result, these interpretations will also be published on FMCSA’s website at www.fmcsa.dot.gov.

Further, Section 5203 requires that not later than 5 years after the date on which a guidance document is published under paragraph (a)(2) or during an applicable review under subsection (c), whichever is earlier, the Secretary must revise regulations to incorporate the guidance document to the extent practicable. FMCSA considered this requirement in making deletions and edits to guidance where the regulations themselves now fully address questions answered by the guidance. For example, Question 4 under section 383.73 clarifies that State Driver Licensing Agencies (SDLAs) may facilitate the commercial learner’s permit application process and to administer the commercial driver’s license general knowledge test to individuals who are not domiciled in that State. FMCSA anticipates publishing a rulemaking to incorporate the guidance document into the regulations. This question would be removed from the guidance when that rulemaking is complete.

Section 5203 also requires that the Administrator publish in the **Federal Register** a notice and request for comment that solicits input from stakeholders on which guidance documents should be updated or eliminated. Because improvement of guidance documents is a focus for all

components of the Department (not just FMCSA), DOT will publish a **Federal Register** document inviting public comments on which DOT guidance (from any DOT operating administration) should be updated or eliminated. In addition, FMCSA is also reviewing its interpretations and guidance incrementally, starting with parts 383 and 384. This document serves as a separate request for comments and input on guidance for these specific parts.

In response to the FAST Act, FMCSA is also reviewing the guidance statements for 49 CFR part 325 (Compliance with Interstate Motor Carrier Noise Emission Standards) and the rest of the FMCSRs (49 CFR parts

350–382 and 385–399). Any such revisions shall be the subject of separate future **Federal Register** documents.

The Agency also tasked its Motor Carrier Safety Advisory Committee (MCSAC)¹ with reviewing the existing guidance statements to obtain stakeholders' views prior to making the preliminary decision concerning the deletion, revision, and reorganization of guidance statements. The MCSAC provided recommendations to FMCSA on November 21, 2016, which are available in the docket listed at the beginning of this document. The MCSAC recommendations included guidance statements for 49 CFR parts 383 and 384. FMCSA reviewed the MCSAC final report in the development

of these guidance changes. It should be noted that the guidance published today does not include all of the deletions recommended by MCSAC because the Agency believes some of the guidance still has value. In other cases, FMCSA proposes to delete guidance not recommended for deletion by MCSAC.

Regulatory Guidance Previously Deleted

Since the 1997 comprehensive publication, the guidance noted on the table below was deleted pursuant to the cited **Federal Register** documents. FMCSA restates those deletions in Table 1 of this document as subsequent regulatory publications did not properly reflect those deletions.

TABLE 1—DELETIONS BY FINAL RULE (DATE AND FEDERAL REGISTER EDITION NOTED)

Section	Previous guidance numbers	Previously deleted by:
383.5	3 and 4	Final Rule titled "Gross Combination Weight Rating; Definition" dated March 19, 2014 (79 FR 15245).
383.23	1, 2, and 4	Final Rule titled, "Commercial Driver's License Testing and Commercial Learner's Permit Standards dated May 9, 2011 (76 FR 26854).
383.73	11	Final Rule titled, "Commercial Driver's License Testing and Commercial Learner's Permit Standards dated May 9, 2011 (76 FR 26854).
383.95	2 and 3	Final Rule titled, "Commercial Driver's License Testing and Commercial Learner's Permit Standards dated May 9, 2011 (76 FR 26854).
383.113	1 and 2	Final Rule titled, "Commercial Driver's License Testing and Commercial Learner's Permit Standards dated May 9, 2011 (76 FR 26854).
383.131	1	Final Rule titled, "Commercial Driver's License Testing and Commercial Learner's Permit Standards dated May 9, 2011 (76 FR 26854).
383.133	1, 2 and 3	Final Rule titled, "Commercial Driver's License Testing and Commercial Learner's Permit Standards dated May 9, 2011 (76 FR 26854).
383.153	1, 2, 3, 4, 5, 6 and 7	Final Rule titled, "Commercial Driver's License Testing and Commercial Learner's Permit Standards dated May 9, 2011 (76 FR 26854).

Regulatory Guidance Deleted by This Document

FMCSA deletes 47 regulatory guidance statements that interpret

sections in parts 383 and 384 of the CDL regulations as shown in Table 2.

TABLE 2—DELETIONS BY SECTION AND QUESTION NUMBER

49 CFR section	Previous question numbers now deleted
383.3	3, 5, 7, 11, 14, 17, 18, 32.
383.5	6, 8, 10.
383.21	1.
383.23	3.
383.37	1, 2.
383.51 (General)	7, 8.
383.51 (Alcohol)	1, 4, 5.
383.71	1, 2, 3, 4.
383.73	1, 2, 3, 4, 6, 9, 10, 11.
383.77	1, 2.
383.93	1, 3, 5, 11, 12.
383.95	1.
Special Topics (Motorcoaches)	1.
Special Topics (State Reciprocity)	1, 2, 3.
Special Topics (International)	1.
384.209	1.
384.211	1.

¹ See <https://www.fmcsa.dot.gov/advisory-committees/mcsac/welcome-fmcsa-mcsac>.

The reason for the particular deletion is set forth in Table 3 below:

TABLE 3—REASONS FOR DELETIONS

49 CFR section	Previous guidance numbers	Reason	
383.3	3, 7, 14, 32	Issue addressed in deleted question is more accurately addressed in other, retained guidance.	
383.93	1, 3.	Language of the regulation is clear on the issue.	
383.95	1.		
Special Topics (State Reciprocity)	2.		
383.3	5, 11		
383.5	10.		
383.23	3.		
383.37	1, 2.		
383.73	2, 11.		
383.77	2.		
383.93	12.		
383.3	18		Current regulation makes these questions obsolete.
383.5	8.		
383.21	1.		
383.51 (General)	7, 8.		
383.51 (Alcohol)	4, 5.		
383.71	1.		
383.73	1, 6, 9, 10.		
383.77	1.		
383.93	5, 11.		
Special Topics (Motorcoaches)	1.		
Special Topics (State Reciprocity)	1.		
384.209	1.		
384.211	1.		
383.5	6	Either the question, answer, or both were unclear and the regulation is clear on the issue.	
383.71	2, 3.	Irrelevant to any regulatory language within this part.	
383.73	4.		
Special Topics (State Reciprocity)	3.		
383.51 (Alcohol)	1		
383.71	4.		
383.3	17		
Special Topics (International)	1		Restates the language of the regulation, and, therefore, does not clarify the rule.
			Obsolete. On February 25, 2016, the Government of Mexico published an accord that changed the validity of the Mexican licenses.

Regulatory Guidance Added

FMCSA adds two regulatory guidance statements that interpret sections in the part 383 CDL regulations. These new statements were developed in response to requests for guidance from the States and others. The new guidance statements are in Table 4.

TABLE 4—NEW GUIDANCE ADDED

49 CFR section	New guidance number
383.91	6
383.113	1

Regulatory Guidance Revised/ Renumbered

FMCSA revises 55 regulatory guidance statements that interpret

sections in parts 383 and 384 and makes number changes only to 24 other guidance statements. Technical corrections are minor ministerial changes, for example, changing references to “FHWA” to “FMCSA,” updating regulatory citations, or making minor grammatical changes. The revised or renumbered guidance statements are in Table 5:

TABLE 5—GUIDANCE REVISED OR RENUMBERED

Section	Previous guidance number	Changes	New guidance number
383.3	1	Technical correction	1.
383.3	2	Technical correction	2.
383.3	4	Number change only; no substantive change	3.
383.3	6	Text of guidance to previous Question 7 was added to this guidance and number change.	4.
383.3	8	Technical correction and number change	5.
383.3	9	Technical correction and number change	6.
383.3	10	Technical correction and number change	7.
383.3	12	Number change only; no substantive change	8.
383.3	13	Technical correction and number change	9.

TABLE 5—GUIDANCE REVISED OR RENUMBERED—Continued

Section	Previous guidance number	Changes	New guidance number
383.3	14	Technical correction and number change	§ 383.93, Question 1.
383.3	15	Technical correction and number change	10.
383.3	16	Technical correction and number change	11.
383.3	19	Number change only; no substantive change	12.
383.3	20	Number change only; no substantive change	14.
383.3	21	Number change only; no substantive change	13.
383.3	22	Number change only; no substantive change	16.
383.3	23	Number change only; no substantive change	17.
383.3	24	Number change only; no substantive change	18.
383.3	25	Technical correction and number change	19.
383.3	26	Technical correction and number change	15.
383.3	27	Technical correction and number change	20.
383.3	28	Technical correction and number change	21.
383.3	29	Edited to improve accuracy and number change	22.
383.3	30	Edited to improve accuracy and number change	23.
383.3	31	Edited to improve accuracy and number change	24.
383.3	33	Number change only; no substantive change	26.
383.5	1	Technical correction	1.
383.5	2	Number change only; no substantive change	6.
383.5	5	Technical correction and number change	2.
383.5	7	Technical correction and number change	3.
383.5	9	Technical correction and number change	4.
383.5	11	Technical correction and number change	5.
383.5	12	Technical correction and number change	7.
383.5	13	Number change only; no substantive change	8.
383.5	14	Number change only; no substantive change	9.
383.21	2	Number change only; no substantive change	1.
383.23	5	Technical correction and number change	1.
383.31	1	Technical correction	1.
383.33	1	Technical correction	1.
383.37	3	Technical correction and number change	1.
383.37	4	Updated pursuant to 67 FR 49742, "Commercial Driver's License Standards, Requirements, and Penalties; Commercial Driver's License Program Improvement and Noncommercial Motor Vehicle Violations Final Rule," July 31, 2002 and number change.	2.
383.51—General Questions	1	Updated pursuant to 67 FR 49742, "Commercial Driver's License Standards, Requirements, and Penalties; Commercial Driver's License Program Improvement and Noncommercial Motor Vehicle Violations Final Rule," July 31, 2002.	1.
383.51—General Questions	2	Technical correction and number change	3.
383.51—General Questions	3	Technical correction and number change	5.
383.51—General Questions	4	No changes	4.
383.51—General Questions	5	Technical correction and number change	2.
383.51—General Questions	6	Updated pursuant to 67 FR 49742, "Commercial Driver's License Standards, Requirements, and Penalties; Commercial Driver's License Program Improvement and Noncommercial Motor Vehicle Violations Final Rule," July 31, 2002.	7.
383.51—Alcohol Questions	2	Technical correction and number change	1.
383.51—Alcohol Questions	3	Technical correction and number change	2.
383.51—Alcohol Questions	6	Updated pursuant to 67 FR 49742, "Commercial Driver's License Standards, Requirements, and Penalties; Commercial Driver's License Program Improvement and Noncommercial Motor Vehicle Violations Final Rule," July 31, 2002 and number change.	§ 383.51, General Question 6.
383.51—Alcohol Questions	7	Technical correction and number change	§ 383.51, General Question 8.
383.51—Alcohol Questions	8	Technical correction and number change	§ 383.51, General Question 9.
383.71	4	Technical correction and number change	1.
383.73	5	Number change only; no substantive change	1.
383.73	7	Technical correction and number change	2.
383.73	8	Number change only; no substantive change	3.
383.73	NA-New as of August 11, 2017. See 82 FR 36101.	Assigned guidance number; no substantive change or technical corrections.	4.
383.75	1	Technical correction	1.

TABLE 5—GUIDANCE REVISED OR RENUMBERED—Continued

Section	Previous guidance number	Changes	New guidance number
383.75	2	Updated pursuant to 76 FR 26854, “Commercial Driver’s License Testing and Commercial Learner’s Permit Standards Final Rule,” May 9, 2011..	2.
383.75	3	Technical correction	3.
383.91	2	Technical correction	2.
383.91	4	Technical correction	4.
383.91	5	Technical correction	5.
383.93	383.3, Question 14	Technical correction and number change	1.
383.93	2	Number change only; no substantive change	5.
383.93	4	Technical correction and number change	2.
383.93	7	Number change only; no substantive change	3.
383.93	8	Number change only; no substantive change	7.
383.93	9	Technical correction and number change	4.
383.93	10	Number change only; no substantive change	8.
383.93	13	Number change only; no substantive change	9.
383.93	14	Technical correction and number change	10.
383.93	15	Number change only; no substantive change	11.
383.93	383.3, Question 34	Technical correction and number change	12.
383.95	4	Technical correction and number change	1.
383.153	8	Technical correction and number change	1.
Special Topics— Motorcoaches and CDL.	2	Technical correction and number change	1.
384.209	2	Number change only; no substantive change.	1.
384.231	1	Technical correction	1.

Current Guidance

The guidance published today in this document uses the following abbreviations:

- Commercial Driver’s License—CDL
- Commercial Motor Vehicle—CMV
- Commercial Motor Vehicle Safety Act of 1986—CMVSA
- Farm-Related Service Industries—FRSI
- Federal Motor Carrier Safety Administration—FMCSA
- Federal Motor Carrier Safety Regulations—FMCSRs
- Gross Combination Weight Rating—GCWR
- Gross Vehicle Weight—GVW
- Gross Vehicle Weight Rating—GVWR
- Hazardous Materials—HM

PART 383—COMMERCIAL DRIVER’S LICENSE STANDARDS; REQUIREMENTS AND PENALTIES

Regulatory Guidance for 49 CFR 383.3 Applicability

Question 1: Is a school or church bus driver required to obtain a CDL?

Guidance: Yes, if the driver operates a vehicle designed to transport 16 or more people (including the driver) or that has a GVWR or GVW, whichever is higher, of 26,001 pounds or more.

Question 2: Do mechanics, shop help, and other occasional drivers need a CDL?

Guidance: Yes, if the vehicle is a CMV and is operated or test-driven on a public highway.

Question 3: Does part 383 apply to drivers of vehicles used in “van pools”?

Guidance: Yes, if the vehicle is designed to transport 16 or more people (including the driver) or has a GVWR or GVW, whichever is higher, of 26,001 pounds or more.

Question 4: Does off-road motorized construction equipment meet the definitions of “motor vehicle” and “commercial motor vehicle” as used in § 383.5 and 49 CFR 390.5?

Guidance: No. Off-road motorized construction equipment is outside the scope of these definitions when (1) operated at construction sites; or (2) operated on a public road open to unrestricted public travel, provided the equipment is not used in furtherance of a transportation purpose. Occasionally driving such equipment on a public road to reach or leave a construction site does not amount to furtherance of a transportation purpose. The definition of off-road motorized construction equipment is to be narrowly construed and limited to equipment which, by its design and function is obviously not intended for use, nor is it used on a public road in furtherance of a transportation purpose. Examples of such equipment include motor scrapers, backhoes, motor graders, compactors, tractors, trenchers, bulldozers and railroad track maintenance cranes.

Question 5: Do operators of motorized cranes and vehicles used to pump cement at construction sites have to

meet the testing and licensing requirements of the CDL program?

Guidance: Yes, because such vehicles are designed to be operated on the public highways, they do not qualify as off-road construction equipment.

Question 6: May a State require persons operating recreational vehicles or other CMVs used by groups of people, including family members, for non-business purposes to have a CDL?

Guidance: Yes. States may extend the CDL requirements to drivers of recreational vehicles and other vehicles used for non-business purposes.

Question 7: Does a driver of either a tractor trailer or a straight truck that is converted into a mobile office need a CDL?

Guidance: Yes, if the vehicle meets the definition of a CMV in § 383.5.

Question 8: Are State, county and municipal workers operating CMVs required to obtain CDLs?

Guidance: Yes, unless they are waived by the State under the firefighting and emergency equipment exemption in § 383.3(d).

Question 9: Do the regulations require that a person driving an empty school bus from the manufacturer to the local distributor obtain a CDL?

Guidance: Yes. Any driver of a bus that is designed to transport 16 or more persons, or that has a GVWR of 26,001 pounds or more, is required to obtain a CDL in the applicable class with a passenger endorsement. This includes

drivers transporting empty school buses on a public highway.

Question 10: Are public transit employees known as “hostlers,” who maintain and park transit buses on transit system property, subject to CDL requirements?

Guidance: No, as long as they do not operate on public highways.

Question 11: Are drivers of non-military amphibious landing craft that are usually used in water but occasionally used on a public highway, such as those used for sightseeing tours, subject to the CDL requirements?

Guidance: Yes, if they are designed to transport 16 or more passengers including the driver or have a GVWR or GVW, whichever is higher, of 26,001 pounds or more.

Question 12: Must a civilian operator of a CMV, as defined in § 383.5, who operates wholly within a military facility open to public travel, have a CDL?

Guidance: Yes, a civilian operator of a CMV, who operates wholly within a military facility open to public travel, must have a CDL. The CDL requirement applies to every person who operates a CMV in interstate, foreign or intrastate commerce. If the road, whether on military or other private property, is open to public travel, vehicles traveling upon it are operating in interstate, foreign or intrastate commerce.

Question 13: Are police officers who operate buses and vans which are designed to transport 16 or more passengers, including the driver, and are used to transport police officers during demonstrations and other crowd control activities required to obtain a CDL?

Guidance: Not necessarily. A State may, in its discretion, under § 383.3(d), exempt persons who operate CMVs necessary for the preservation of life or property or the execution of emergency governmental functions. These vehicles must be equipped with audible and visual signals and may include Special Weapons and Tactics (SWAT) team vehicles and other vehicles used in response to emergencies.

Question 14: Does the FMCSA include the Space Cargo Transportation System (SCTS) off-road motorized military equipment under the definitions of “motor vehicle” and “commercial motor vehicle” as used in § 383.5?

Guidance: No. Although the SCTS has vehicular aspects (it is mechanically propelled on wheels), the SCTS is obviously incompatible with highway traffic and is found only at locations adjacent to military bases in California and Florida, and is operated by skilled technicians. The SCTS is moved to and

from its point of manufacture to its launch site by “driving” the “vehicles” short distances on public roads at speeds of five miles per hour or less. This is only incidental to their primary functions; the SCTS is not designed to operate in traffic; and its mechanical manipulation often requires a different set of knowledge and skills. In most instances, the SCTS has to be specially marked, escorted, and attended by numerous observers.

Question 15: Do active duty military personnel, not wearing military uniforms, qualify for a waiver from the CDL requirements if the CMVs are rental trucks or leased buses from the General Services Administration?

Guidance: Yes. The drivers in question do not need to be in military uniforms to qualify for the waivers if they are on active duty and performing a military function.

Question 16: May fuel be considered “farm supplies” as used in § 383.3(d)(1)?

Guidance: Yes. The decision to grant the waiver is left to each individual State.

Question 17: Is the transportation of seed-cotton modules from the cotton field to the gin by a module transport vehicle considered a form of custom harvesting activity that may be included under the FRSI waiver (§ 383.3(f))?

Guidance: Yes. The transportation of seed-cotton modules from field to gin may, at the State’s discretion, be considered as custom harvesting and therefore eligible for the FRSI waiver. However, cotton ginning operations as an industry, and specifically the transport of cotton from the gin, are not eligible activities under the FRSI waiver because these activities are not considered appropriate elements of custom harvesting.

Question 18: May a State (1) require an applicant for a CDL farmer waiver (§ 383.3(d)) to take HM training as a condition for being granted a waiver; and (2) reduce the 150-mile provision in the waiver to 50 miles if the driver is transporting HM?

Guidance: Yes. The Federal farm waiver is permissive, not mandatory.

Question 19: Are custom harvesters who harvest trees for tree farmers eligible to be considered “custom harvesters” for purposes of the FRSI waiver from selected CDL requirements?

Guidance: Yes, if the State considers a business that harvests trees for tree farmers to be a custom harvesting operation, then its employees could qualify for the FRSI-restricted CDLs, subject to the limitations of the waiver provisions in § 383.3(f).

Question 20: May a farmer who meets all of the conditions for a farm waiver be waived from the CDL requirements when transporting another farmer’s products absent any written or verbal contract?

Guidance: No. If a farmer is transporting another farmer’s products and being paid for doing so, directly or indirectly, he or she is acting as a for-hire carrier and does not meet the conditions for a farm waiver. The existence of contract, written or verbal, is not relevant to the CDL waiver provisions.

Question 21: May a State exempt CMV drivers employed by a partnership, corporation or an association engaged in farming from the CDL requirements under the farmer waiver (§ 383.3(d)) or is the waiver only available to drivers employed by a family-owned farm?

Guidance: Yes. Since farming partnerships, corporations, and associations are legal “persons,” States may exempt drivers working for these organizations from the CDL requirements, provided they can operate within the waiver conditions.

Question 22: May a State exempt CMV drivers employed by farm cooperatives from the CDL requirements under the farmer waiver (§ 383.3(d))?

Guidance: No. The waiver covers only operators of farm vehicles which are controlled and operated by “farmers” as defined in 49 CFR 390.5. The waiver does not extend to ancillary businesses, like cooperatives, that provide farm-related services to members.

Question 23: Is a person who grows sod as a business considered a farmer and eligible for the farmer waiver?

Guidance: Yes, the State has the discretion to recognize the growing of sod as a farming activity and to provide an exemption under the farmer waiver in § 383.3.

Question 24: Would a tillerman, a person exercising control over the steerable rear axle(s) on a CMV, be considered a driver or a person who operates a CMV and be subject to applicable CDL regulations?

Guidance: Yes. A person physically located on the rear of a manned CMV who controls a steerable rear axle while the CMV is moving at highway speeds would be considered a person who operates a CMV, and would, therefore, be subject to the applicable CDL regulations in part 383. A person walking beside a CMV or riding in an escort car while controlling a steerable rear axle at slow speeds would not be considered a person who operates a CMV, and, therefore, would not be subject to applicable CDL regulations.

Regulatory Guidance for 49 CFR 383.5 Definition

Question 1:

a. Does “designed to transport” as used in the definition of a CMV in § 383.5 mean original design or current design when a number of seats are removed?

b. If all of the seats except the driver’s seat are removed from a vehicle originally designed to transport only passengers to convert it to a cargo-carrying vehicle, does this vehicle meet the definition of a CMV in § 383.5?

Guidance:

a. “Designed to transport” means the original design. Removal of seats does not change the design capacity of the CMV so long as it still transports passengers.

b. No, unless this modified vehicle has a GVWR or GVW, whichever is higher, of 26,001 pounds or more, or is used to transport placarded HM. This vehicle shall not transport passengers. Only the driver may occupy this converted vehicle.

Question 2: When a State agency contracts with private parties for services involving the operation of CMVs, is the State agency or contractor considered the employer?

Guidance: For the purposes of part 383, if the contractor employs individuals and assigns and monitors their driving tasks, the contractor is considered the employer. If the State agency assigns and monitors driving tasks, then the State agency is the employer.

Question 3: Does the definition of a CMV in § 383.5 of the CDL requirements include parking lot and/or street sweeping vehicles and is a driver of such a vehicle required to have a CDL?

Guidance: If the GVWR of a parking lot or street sweeping vehicle is 26,001 pounds or more, it is a CMV under § 383.5. If the vehicle is operated on a public highway, the driver would need a CDL.

Question 4: One definition of CMV is a vehicle “designed to transport” 16 or more passengers, including the driver. Does that include standing passengers if the vehicle was specifically designed to accommodate standees?

Guidance: No. “Designed to transport” refers only to the number of designated seats; it does not include areas suitable, or even designed, for standing passengers.

Question 5: Must operators of motor graders or motor scrapers obtain CDLs and be subject to controlled substances and alcohol testing if they operate the equipment on public roads?

Guidance: No.

Question 6: Are rubberized collapsible containers or “bladder bags” attached to a trailer considered a tank vehicle, thus requiring operators to obtain a CDL with a tank vehicle endorsement?

Guidance: Yes.

Question 7: A driver operates a combination vehicle with a GCWR of 26,001 pounds or more. The tractor is towing a semitrailer and a full trailer, each with a GVWR of less than 10,000 pounds. Is this combination a Group A vehicle that requires a driver with a Class A CDL?

Guidance: Yes. The GVWR for multiple towed units are added to determine whether the 10,000 pound GVWR threshold has been met. If the total GVWR for the two trailers is more than 10,000 pounds, and the tractor’s GVWR is sufficient to produce a GCWR of at least 26,001 pounds, the combination is a Group A vehicle requiring a driver with a Class A CDL with a double/triple trailers endorsement.

For example, a combination vehicle with a GCWR of 36,000 pounds includes a semitrailer and a trailer, each of which has a GVWR of 6,000 pounds. This is a Group A vehicle having a Gross GCWR of 36,000 pounds inclusive of two towed units having a combined GVWR of 12,000 pounds.

Question 8: On May 9, 2011, FMCSA revised the definition of “tank vehicle” to include any CMV that is designed to transport any liquid or gaseous materials within a tank or tanks having an individual rated capacity of more than 119 gallons or more that is either permanently or temporarily attached to the vehicle or the chassis. Does the new definition include loaded Intermediate Bulk Containers (IBCs) or other tanks temporarily attached to a CMV?

Guidance: Yes. The new definition is intended to cover (1) a vehicle transporting an IBC or other tank used for any liquid or gaseous materials with an individual rated capacity of 1,000 gallons or more that is either permanently or temporarily attached to the vehicle or chassis; or (2) a vehicle used to transport multiple IBCs or other tanks having an individual rated capacity of more than 119 gallons and an aggregate rated capacity of 1,000 gallons or more that are permanently or temporarily attached to the vehicle or the chassis.

Question 9: On May 9, 2011, FMCSA revised the definition of “tank vehicle.” Does the new definition cover the transportation of empty Intermediate Bulk Containers (IBCs) or other tanks, or empty storage tanks?

Guidance: No. The definition of “tank vehicle” does not cover the transportation of empty IBCs or other tanks, or empty tanks when these containers are manifested either as empty or as residue on a bill of lading, and are actually empty or contain only residue. Furthermore, the definition of tank vehicle does not cover the transportation of empty storage tanks that are not designed for transportation and have a rated capacity of 1,000 gallons or more, that are temporarily attached to a flatbed vehicle.

Regulatory Guidance for 49 CFR 383.21—Number of Drivers’ Licenses

Question 1: Is a person from Puerto Rico required to surrender his or her driver’s license in order to obtain a non-domiciled CDL?

Guidance: No. Since Puerto Rico and the U.S. Territories are not included in the definition of a State in section 12016 of the CMVSA (49 U.S.C. 31301(14)), they must be considered foreign countries for purposes of the CDL requirements. Under part 383, a person domiciled in a foreign country is not required to surrender his or her foreign license in order to obtain a non-domiciled CDL. There are two reasons for permitting this dual licensing to a person domiciled in Puerto Rico: (a) There is no reciprocal agreement with Puerto Rico recognizing its CMV testing and licensing standards as equivalent to the standards in part 383, and (b) the non-domiciled CDL may not be recognized as a valid license to drive in Puerto Rico.

Regulatory Guidance for 49 CFR 383.23—Commercial Driver’s License

Question 1: May a foreign driver with an employment authorization document obtain a CDL to operate a CMV in the United States?

Guidance: Yes. A foreign driver holding an employment authorization document or an unexpired foreign passport accompanied by an approved Customs and Border Protection (CBP) I-94 Arrival/Departure Record may obtain a non-domiciled CDL. However, drivers who are citizens of Canada and Mexico are not eligible for non-domiciled CDLs because FMCSA has determined that commercial licenses issued by Canadian provinces and territories, and the United Mexican States, are in accordance with the standards established by our rules. Therefore, all Mexican and Canadian drivers must have an appropriate commercial license from his or her home country. Finally, a foreign driver who is in this country on an employment authorization document or an unexpired foreign

passport accompanied by an approved CBP I-94 Arrival/Departure Record may not obtain a resident CDL since he or she is not “domiciled” in a U.S. State, as defined in § 383.5 (“State of domicile”).

Regulatory Guidance for 49 CFR 383.31—Notification of Convictions for Driver Violations

Question 1: Must an operator of a CMV (as defined in § 383.5), who holds a CDL, notify his/her current employer of a conviction for violating a State or local (non-parking) traffic law in any type of motor vehicle, as required by § 383.31(b), even though the conviction is under appeal?

Guidance: Yes. The taking of an appeal does not vacate or annul the conviction, nor does it stay the notification requirements of § 383.31. The driver must notify his/her employer within 30 days of the date of the conviction.

Regulatory Guidance for 49 CFR 383.33—Notification of Driver’s License Suspensions

Question 1: When a driver (a) receives an Administrative Order of Suspension due to a blood alcohol reading in excess of the legal limit with notice that the suspension is not to be effective until 45 days after the notice or after an administrative hearing, and (b) a hearing is subsequently held, in effect suspending the license, what is the effective date of suspension for purposes of notifying the employer under § 383.33?

Guidance: The effective date of the suspension is the date given the employee in the Administrative Order of Suspension. For the purpose of notifying the employer, the employee must notify his or her employer by the end of the next business day of receiving the Administrative Order of Suspension.

Regulatory Guidance for 49 CFR 383.37—Employer Responsibilities

Question 1: If an individual driver had two convictions for serious traffic violations while driving a CMV, and neither the FMCSA nor his/her State licensing agency took any disqualification action, does the motor carrier have any obligation under FMCSA regulations to refrain from using the driver for 60 days? If so, when does that time period begin?

Guidance: No. The motor carrier’s responsibility under § 383.37(a) to refrain from using the driver begins only when it learns of a disqualification action imposed by FMCSA or the State agency and continues until the

disqualification period set by the State or FMCSA is completed.

Question 2: Is a driver who has a CDL and has been convicted of a felony disqualified from operating a CMV under the FMCSRs?

Guidance: Not necessarily. The FMCSRs do not prohibit a driver who has been convicted of a felony from operating a CMV unless the offense involved the use of a motor vehicle, either a CMV or a non-CMV. (Table 1 to § 383.51(b))

Regulatory Guidance for 49 CFR 383.51—Disqualification of Drivers—General Questions

Question 1:

a. If a CDL holder was convicted of one “excessive speeding” (15 or more miles over the speed limit) violation in a CMV and the same violation in his/her personal vehicle, would the driver be disqualified? Or,

b. If a CDL holder was convicted of two separate “excessive speeding” (15 or more miles over the speed limit) violations in his/her personal passenger vehicle, would the driver be disqualified?

Guidance: Yes, in both cases, if the second offense was within 3 years of the first. Whether the vehicle is a CMV is irrelevant.

Question 2: If a State disqualifies a driver for two convictions for serious traffic violations under § 383.51 and that driver is then reinstated and commits a third serious violation, what additional period of disqualification must be imposed on that driver?

Guidance: If the third violation for a serious violation occurs within 3 years of the original violation and the driver is convicted of the third violation, then the driver must be disqualified for an additional 120 days.

Question 3: Section 383.51 of the FMCSRs disqualifies a driver if certain offenses were committed while operating a CMV. Will the States be required to identify on the motor vehicle driver’s record the class of vehicle being operated when a violation occurs?

Guidance: No, the State must only identify whether the violation occurred in a CMV, not the specific class of CMV. The only other indication that is required is if the vehicle was carrying HM as defined in § 383.5.

Question 4: What is meant by leaving the scene of an accident involving a CMV?

Guidance: As used in part 383, the disqualifying offense of “leaving the scene of an accident involving a CMV” is all-inclusive and covers the entire range of situations where the driver of

the CMV is required by State law to stop after an accident and either give information to the other party, render aid, or attempt to locate and notify the operator or owner of other vehicles involved in the accident.

Question 5: If a CDL holder commits an offense that would normally be disqualifying, but the CDL holder is driving under the farm waiver in § 383.3(d)(1), must the conviction result in a disqualification and action against the CDL holder?

Guidance: Yes. A CDL holder is subject to the disqualification requirements, even if the CDL holder is not operating a CMV or a vehicle requiring the CDL when the offense occurs.

Question 6: Is a driver who possesses a valid CDL issued by his/her State of domicile, but who is suspended by another State for reasons unrelated to the violation of a motor vehicle traffic control law, disqualified from operating a CMV?

Guidance: No. Section 383.5 defines the term “Disqualification” for CDL holders and limits the basis of out-of-State disqualifications to those resulting from a conviction for a violation of State or local law relating to motor vehicle traffic control (other than parking, vehicle weight or vehicle defect violations).

Question 7: May a State issue a “conditional,” “occupational” or “hardship” license that includes CDL driving privileges when a CDL holder loses driving privileges to operate a private passenger vehicle (non-CMV)?

Guidance: No. Under 49 CFR 384.210, a State may not knowingly issue a CLP, CDL, or a commercial special license or permit (including a provisional or temporary license) permitting a person to drive a CMV during a period in which the CLP or CDL holder’s noncommercial driving privilege has been disqualified.

Question 8: Must the State use the date of conviction, rather than the offense date, to calculate the starting and ending dates for the driver disqualification period specified in § 383.51?

Guidance: Yes, the State must use the date of conviction or a later date, rather than the offense date, as the basis for calculating the starting and ending dates for the driver disqualification period. The use of the conviction date or a later date ensures that the driver receives due process of law but still serves the full disqualification required.

Question 9: Must the State use the offense date or the conviction date to determine if two or more serious traffic

convictions occurred within a 3-year period?

Guidance: The State must use the offense dates to determine if two or more serious traffic convictions fall within the 3-year period specified in § 383.51, Table 2.

Regulatory Guidance for 49 CFR 383.51—Disqualification of Drivers—Alcohol Questions

Question 1: Is a driver disqualified for driving a CMV while off-duty with a blood alcohol concentration over 0.04 percent?

Guidance: Yes. Any person driving a CMV, as defined in § 383.5, regardless of the person's duty status, must be disqualified if convicted of driving with a blood alcohol concentration over 0.04 percent.

Question 2:

a. Does a receipt to drive issued pursuant to the administrative license revocation (ALR) procedure authorize the continued operation of a CMV when the license surrendered is a CDL?

b. Does the acceptance of a receipt to drive place the CDL holder in violation of the one driver's license requirement?

Guidance:

a. Yes. The ALR procedure of taking possession of the driver's CDL and issuing a receipt to drive or other "temporary license" is valid under part 383. The CDL that is being held by the State is still valid until the ALR period begins.

b. The driver violates no CDL requirements for accepting the receipt which may be used to the extent authorized.

Regulatory Guidance for 49 CFR 383.71—Driver Application Procedures

Question 1: May a CDL skills test examiner conduct a driving skills test administered in accordance with part 383 before a person subject to 49 CFR part 382 is tested for alcohol and controlled substances?

Guidance: Yes. A CDL skills test examiner, including a third party examiner, may administer a driving skills test to a person subject to 49 CFR part 382 without first testing him/her for alcohol and controlled substances. The sole purpose of the CDL driving skills test is to assess a person's ability to operate a CMV.

Regulatory Guidance for 49 CFR 383.73—State Procedures

Question 1: Must a new State of record accept the out-of-State driving record on CDL transfer applications and include this record as a permanent part of the new State's file?

Guidance: Yes.

Question 2: May a State allow an applicant to keep his/her current valid State license when issued a FRSI-restricted CDL?

Guidance: No. That would violate the single-license requirement.

Question 3: Does the word "issuing" as used in § 383.73(b) include both temporary 60-day CDLs and permanent CDLs?

Guidance: Yes, the word "issuing" applies to all CLPs/CDLs whether they are temporary or permanent.

Question 4: May States accept applications for a CLP from individuals who are not domiciled in the State but who receive CDL training within the State, and administer the knowledge test to these individuals?

Guidance: Yes. Section 383.73 does not prohibit States from accepting and processing CLP applications from Out-of-State applicants (e.g., individuals who are not domiciled in the State but who receive training there) and administering the knowledge test to such applicants, provided there is agreement between the testing State and the applicant's State of domicile. In particular: (1) The testing State must administer the general knowledge test in accordance with part 383, subparts F, G, and H; (2) transmission of general knowledge test results and any other supporting documentation shall occur by a direct, secure, electronic means to the State of domicile; and (3) in accordance with § 383.73(h), only the State of domicile may create the CDLIS record and issue the physical CLP. Ultimately, the responsibility for compliance with all requirements of §§ 383.71 and 383.73 remains with the State of domicile. Under § 383.79, States of domicile are already required to accept skills test results from other States; this guidance clarifies that States of domicile may (but are not required to) accept knowledge test results from other States in the same manner. This guidance shall not be construed to allow a State to issue a CLP or CDL to an individual who is not domiciled in that State. Both the CLP and the CDL must be issued by the State of domicile, as required by 49 U.S.C. 31311(a)(12)(A).

Regulatory Guidance for 49 CFR 383.75—Third Party Testing

Question 1: May the CDL knowledge test be administered by a third party?

Guidance: No. The third party testing provision found in § 383.75 applies only to the skills portion of the testing procedure. However, if an employee of the State who is authorized to supervise knowledge testing is present during the testing, then FMCSA regards it as being

administered by the State and not by a third party.

Question 2: Do third party skills test examiners have to meet all the requirements of State-employed examiners—i.e., all the State's qualification and training standards?

Guidance: Yes. Section 384.228 requires third party skills examiners to meet the same qualification and training standards as State examiners to conduct skills tests.

Question 3: Do third party skills test examiners have to be qualified to administer skills tests in all types of CMVs?

Guidance: No, but they may administer skills tests only in those types of CMVs for which they are qualified.

Regulatory Guidance for 49 CFR 383.91—Commercial Motor Vehicle Groups

Question 1: May a State expand a vehicle group to include vehicles that do not meet the Federal definition of the group?

Guidance: Yes, if (a) A person who tests in a vehicle that does not meet the Federal standard for the Group(s) for which the issued CDL would otherwise be valid, is restricted to vehicles not meeting the Federal definition of such Group(s); and (b) The restriction is fully explained on the license.

Question 2: Is a driver of a combination vehicle with a GCWR of less than 26,001 pounds required to obtain a CDL, if the trailer's GVWR is more than 10,000 pounds?

Guidance: No, because the GCWR is less than 26,001 pounds. However, the driver would need a CDL if the vehicle is transporting HM, as defined in § 383.5, or if it is designed to transport 16 or more people, including the driver.

Question 3: Can a State which expands the vehicle group descriptions in § 383.91 enforce those expansions on out-of-State CMV drivers by requiring them to have a CDL?

Guidance: No. They must recognize out-of-State licenses that have been validly issued in accordance with the Federal standards and operative licensing compacts.

Question 4: What CMV group is a driver of an articulated motorcoach (bus) with a GVWR of 26,001 pounds or more required to possess?

Guidance: A driver of an articulated bus with a GVWR of 26,001 pounds or more is required to possess a Class B CDL with the proper endorsement(s).

Question 5: Do tow truck operators need CDLs? If so, in what vehicle group(s)?

Guidance: For CDL purposes, the tow truck and its towed vehicle are treated the same as any other powered unit towing a non-powered unit.

- If the GCWR of the tow truck is 26,001 pounds or more and the towed vehicle alone exceeds 10,000 pounds GVWR, then the driver needs a Class A CDL.
- If the GVWR of the tow truck alone is 26,001 pounds or more, and the driver either (a) drives the tow truck without a vehicle in tow, or (b) drives the tow truck with a towed vehicle of 10,000 pounds or less GVWR, then the driver needs a Class B CDL.
- A driver of a tow truck or towing configuration that does not fit either configuration description above requires a Class C CDL only if he or she tows a vehicle required to be placarded for HM on a “subsequent move,” *i.e.*, after the initial movement of the disabled vehicle to the nearest storage or repair facility.

Question 6: May a truck tractor (as defined in 49 CFR 390.5) be driven on public roads by a driver with a Class B CDL?

Guidance: Yes, but only if the truck tractor is not pulling a towed unit (trailer) that is in excess of 10,000 pounds.

Regulatory Guidance for 49 CFR 383.93—Endorsements

Question 1: Are employees of a governmental agency who drive emergency response vehicles that transport HM in quantities requiring placarding subject to the CDL regulations?

Guidance: No, if the vehicle is being operated under the provisions of § 383.3(d)(2).

Question 2: Would the driver in the following scenarios be required to have a CDL with an HM endorsement?

- a. A driver transports 1,001 or more pounds of Division 1.4 (Class C explosive) materials in a vehicle with a GVWR of less than 26,001 pounds?
- b. A driver transports less than 1,001 pounds of Division 1.4 materials in a vehicle with a GVWR of less than 26,001 pounds?
- c. The driver transports any quantity of Division 1.1, 1.2 or 1.3 (Class A or B explosive) materials in any vehicle?

Guidance:

- a. Yes; unless the explosive is a 1.4S explosive, which never requires placarding.
- b. No.
- c. Yes.

Question 3: Must all drivers of vehicles required to be placarded have CDLs containing the HM endorsement?

Guidance: Yes, unless waived by the State, as allowed by the provisions of § 383.3.

Question 4: Do persons transporting battery-powered forklifts need to obtain an HM endorsement?

Guidance: No, battery powered vehicles and equipment are not required to be placarded for transportation.

Question 5: Are drivers of double and triple saddle mount combinations required to have the double/triple trailers endorsement on their CDLs?

Guidance: Yes, if the following conditions apply:

- There is more than one point of articulation in the combination;
- The GCWR is 26,001 pounds or more; and
- The combined GVWR of the vehicle(s) being towed is in excess of 10,000 pounds.

Question 6: Does an unattached tote or portable tank with a cargo capacity of 1,000 gallons or more meet the definition of “portable tank” requiring a tank vehicle endorsement on the driver’s CDL?

Guidance: Yes.

Question 7: Is a driver who operates a truck tractor pulling a heavy-haul trailer attached to the tractor by means of a “jeep,” that meets the definition of a CMV under part 383 required to have a CDL with a double/triple trailer endorsement?

Guidance: Yes. The “jeep,” also referred to as a load divider, is a short frame-type trailer complete with upper coupler, fifth wheel and undercarriage assembly and designed in such a manner that when coupled to a semitrailer and tractor it carries a portion of the trailer kingpin load while transferring the remainder to the tractor’s fifth wheel.

Question 8: Do tow truck operators who hold a CDL require endorsements to tow “endorsable” vehicles?

Guidance: For CDL endorsement purposes, the nature of the tow truck operations determines the need for endorsements:

- If the driver’s towing operations are restricted to emergency “first moves” from the site of a breakdown or crash to the nearest appropriate repair facility, then no CDL endorsement of any kind is required.
- If the driver’s towing operations include any “subsequent moves” from one repair or disposal facility to another, then endorsements requisite to the vehicles being towed are required. Exception: Tow truck operators need not obtain a passenger or school bus endorsement.

Question 9: Does a driver who operates a straight truck equipped with a pintle hook towing a full trailer (a semitrailer equipped with a converter

dolly) need a doubles/triples endorsement on his or her CDL?

Guidance: No. This combination is a truck towing a single trailer. This configuration does not require a driver to have a doubles/triples endorsement on a CDL.

Question 10: Are drivers required to have both the “P” passenger and “S” school bus endorsement if they are not transporting students when operating a “school bus,” as defined in § 383.5?

Guidance: No. Only drivers actually transporting pre-primary, primary, or secondary school students from home to school, from school to home, or to and from school sponsored events in a school bus are required to have both the “P” and “S” endorsements. Only a “P” endorsement is required by drivers delivering school buses from the manufacturer, by mechanics and other drivers operating empty school buses, and by drivers transporting students and/or adults to and from events that are not sponsored by the school.

Question 11: Is a person who operates a custom motorcoach in commerce with a GVWR or GVW greater than 26,001 pounds required to have a passenger endorsement for his or her CDL if the vehicle is designed or used to transport fewer than 16 passengers, including the driver?

Guidance: Yes. The motorcoach is a Heavy Straight Vehicle (Group B) under § 383.91 that is designed to transport passengers in commerce. The driver is, therefore, required by § 383.93(b)(2) to have a passenger endorsement.

Question 12: Must the driver of an empty tank vehicle that is being transported from the manufacturer to a local distributor or purchaser have a tank endorsement on his or her CDL?

Guidance: The vehicle described meets the definition of a tank vehicle and, therefore, the driver would need a tank endorsement, unless the driver is (1) transporting an empty tank and has in his or her possession a manifest that states that the tank is empty or contains only a residue, or (2) the driver is transporting empty storage tanks that are not designed for transportation and have a rated capacity of 1,000 gallons or more, that are temporarily attached to a flatbed vehicle. The driver does not need a manifest stating that the storage tanks are empty or contain only residue.

Regulatory Guidance for 49 CFR 383.95—Air Brake Restrictions

Question 1: May a driver with an air brake restriction on his or her CDL operate a CMV equipped with a hydraulic braking system that has an air-assisted parking brake release?

Guidance: Yes. The air brake restriction applies only to the principal braking system used to stop the vehicle. Section 383.95(a) is not applicable to an air-assisted mechanism to release the parking brake.

Regulatory Guidance for 49 CFR 383.113—Required Skills

Question 1: May a driver use a truck tractor (as defined in 49 CFR 390.5) as a representative vehicle for purposes of completing the skills tests for a Class B CDL?

Guidance: Yes, but only if the truck tractor has a GVWR of 26,001 pounds or more.

Regulatory Guidance for 49 CFR 383.153—Information on the Document and Application

Question 1: May a State issue a CDL without a color photograph?

Guidance: Yes, if requiring a photograph (whether in color or black and white) would violate a driver's religious beliefs. The issuing State must determine whether a driver's objection to a photograph has a genuine religious basis.

Regulatory Guidance for 49 CFR 383 Special Topics CDL Requirements

Question 1: What skills test and restrictions are required for a CDL holder seeking to add a passenger endorsement?

Guidance: The adding of an endorsement is considered a license upgrade and is regulated by §§ 383.71(e) and 383.73(e). The additional knowledge and skills testing requirements for passenger endorsements are found at § 383.117. Three scenarios may arise when a CDL holder applies for a passenger endorsement:

a. The skills test is taken in a passenger vehicle that is in the same vehicle Class as the current CDL. In this scenario, the CDL holder retains the preexisting class of CDL and the passenger endorsement is added.

b. The skills test is taken in a passenger vehicle that is in a higher vehicle Class than that of the current CDL. In this scenario, the CDL holder is issued a higher class CDL with the passenger endorsement.

c. The skills test is taken in a passenger vehicle that is in a lower vehicle class than the current CDL. In this scenario, the CDL holder retains the vehicle class of the current CDL, but is restricted to driving passenger vehicles in the class in which the passenger skills test was taken, or any lower class.

PART 384—STATE COMPLIANCE WITH COMMERCIAL DRIVER'S LICENSE PROGRAM

Regulatory Guidance for 49 CFR 384.209 Notification of Traffic Violations

Question 1: Must the licensing agency establish a commercial driver record, including a CDLIS pointer record, for a person holding a non-commercial license issued by that jurisdiction upon receiving notification of a conviction of any offense committed while (illegally) operating a CMV?

Guidance: Yes.

Regulatory Guidance for 49 CFR 384.231 Satisfaction of State Disqualification Requirement

Question 1: When accepting an applicant transferring from another State whose record reveals a disqualifying conviction for which the originating State did not take a disqualifying action, is the transferee State required to take the disqualifying action?

Guidance: Yes. Section 384.206(b)(1) requires a State, including a transferee State, to check the applicant's driving record for the past 10 years in every State where he/she was licensed. If adverse information is discovered, § 384.206(b)(3) requires a State, including a transferee State, to "promptly implement the disqualifications . . . that are called for in any applicable section(s) of this subpart." Section 384.231(a) makes the requirements of § 384.206(b) applicable to the "State of licensure"—which includes a transferee State under §§ 384.206(b)(1) and 384.231(b) then requires disqualifying action against a CDL holder who has been convicted of a disqualifying offense committed after the Federal compliance date for that offense, but has not yet served the disqualification.

Issued on: March 1, 2019.

Raymond P Martinez,
Administrator.

[FR Doc. 2019-04180 Filed 3-7-19; 8:45 am]

BILLING CODE 4910-EX-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 170816769-8162-02]

RIN 0648-XG869

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Hook-and-Line Catcher/Processors in the Central Regulatory Area of the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod by hook-and-line catcher/processors in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the A season allowance of the 2019 Pacific cod total allowable catch apportioned to hook-and-line catcher/processors in the Central Regulatory Area of the GOA.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), March 5, 2019, through 1200 hours, A.l.t., June 10, 2019.

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

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679. Regulations governing sideboard protections for GOA groundfish fisheries appear at subpart B of 50 CFR part 680.

The A season allowance of the 2019 Pacific cod total allowable catch (TAC) apportioned to hook-and-line catcher/processors in the Central Regulatory Area of the GOA is 234 metric tons (mt), as established by the final 2018 and 2019 harvest specifications for groundfish of the GOA (83 FR 8786, March 1, 2018).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator) has determined that the A season allowance

of the 2019 Pacific cod TAC apportioned to hook-and-line catcher/processors in the Central Regulatory Area of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 224 mt and is setting aside the remaining 10 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by hook-and-line catcher/processors in the Central Regulatory Area of the GOA. While this closure is effective the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the directed fishing closure of Pacific cod by hook-and-line catcher/processors in the Central Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for

public comment because the most recent, relevant data only became available as of March 4, 2019.

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: March 5, 2019.

Karen H. Abrams,
Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2019-04217 Filed 3-5-19; 4:15 pm]

BILLING CODE 3510-22-P

Proposed Rules

Federal Register

Vol. 84, No. 46

Friday, March 8, 2019

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 160, 161, and 162

[Docket No. APHIS–2017–0065]

RIN 0579–AE40

Administrative Changes to the Regulations Governing the National Veterinary Accreditation Program

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations governing the National Veterinary Accreditation Program by clarifying the veterinary programs for which accredited veterinarians are authorized to perform duties under the Animal Health Protection Act. We are also proposing to add or revise certain definitions and terms used in the regulations. The changes we propose would update the program regulations.

DATES: We will consider all comments that we receive on or before May 7, 2019.

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

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov/#!docketDetail;D=APHIS-2017-0065>.

- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2017–0065, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at <http://www.regulations.gov/#!docketDetail;D=APHIS-2017-0065> or in our reading room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be

sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT:

Dr. Todd Behre, Coordinator, National Veterinary Accreditation Program; National Animal Disease Traceability and Veterinary Accreditation Center, APHIS Veterinary Services; (518) 281–2157; todd.h.behre@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

Under the Animal Health Protection Act, or AHPA (7 U.S.C. 8301 *et seq.*), the Secretary of Agriculture is authorized to protect the health of U.S. livestock by preventing the introduction and interstate spread of diseases and pests of livestock and for eradicating such diseases from the United States when feasible. The Secretary may also establish a veterinary accreditation program consistent with the AHPA, which includes standards of conduct for accredited veterinarians. The administration of this program, known as the National Veterinary Accreditation Program (NVAP), has been delegated to the Animal and Plant Health Inspection Service (APHIS), Veterinary Services (VS). The NVAP allows private practitioners, once accredited by APHIS, to assist Federal veterinarians with performing certain tasks to control and prevent the spread of animal diseases throughout the United States and internationally.

Title 9 of the Code of Federal Regulations (CFR), chapter I, subchapter J (parts 160 through 162, referred to below as the regulations) contains regulations for accreditation of veterinarians and suspension or revocation of accreditation. Part 160 contains definitions pertaining to the NVAP. Part 161 includes standards for accredited veterinarians, conditions for veterinary accreditation application, renewal, revocation and suspension, and provisions for program certification of accredited veterinarians. Part 162, subpart A, describes the scope and applicability of the rules of practice for proceedings for the revocation or suspension of accreditation of veterinarians as provided in parts 160 and 161. Part 162, subpart B, provides supplemental rules of practice for summary suspension or revocation of accreditation of veterinarians. Under subpart B, the Administrator may

summarily suspend the accreditation of a veterinarian where there is reason to believe that the veterinarian has knowingly violated the AHPA.

Although we are proposing several changes to parts 160 through 162, none of the changes we propose to make imposes new regulatory requirements. The purpose of the changes is to clarify and update the NVAP regulations.

Additions and Changes to Definitions

In § 160.1, *accredited veterinarian* is currently defined as a veterinarian approved by the Administrator in accordance with the provisions of part 161 of subchapter J to perform functions specified in subchapters B, C, and D of chapter I.

We propose to amend the definition of *accredited veterinarian* so that it lists all subchapters in 9 CFR chapter I under which accredited veterinarians may perform duties consistent with the AHPA. Specifically, we would reference subchapter G, “Livestock Improvement,” in the definition along with subchapters B, C, and D currently listed in the definition. Subchapter G includes programs constituting the National Poultry Improvement Plan and the Voluntary Trichinae Certification Program, both of which derive their authority from the AHPA. We would also reference subchapter G along with subchapters B, C, and D in §§ 161.1(g)(2)(xi) and 161.7(a). We propose to make this change to ensure that the regulations contain an accurate record of all programs covered under the AHPA, but we do not expect the change to affect the current status of these programs under subchapter G with respect to administration or staffing.

The terms “accreditation” and “authorization,” as used in current § 161.2, have distinct meanings. “Accreditation” means the action of the Administrator initially approving a veterinarian in accordance with the provisions of part 161 to perform functions in one State, while “authorization” means the action of the Administrator approving an accredited veterinarian in accordance with the provisions of part 161 to perform functions in a State or States other than the State in which the veterinarian was initially accredited.

Some stakeholders have been confused as to the distinction between the two terms. For this reason, we propose to add definitions for

accreditation and authorization to § 160.1. If an accredited veterinarian wishes to perform accredited duties in a State other than the State in which that veterinarian was initially accredited, he or she must complete an application to request authorization to perform accredited duties in the new State from the Veterinarian-in-Charge of that State. Although accreditation is a one-time action and valid nationally, an accredited veterinarian may not perform accredited duties in a State other than the one in which he or she was initially accredited until APHIS provides the authorization to perform accredited duties in the additional State.

To further underscore the distinction between accreditation and authorization, we also propose to add a definition for authorization to mean the action of the Administrator approving an accredited veterinarian in accordance with the provisions of part 161 to perform functions specified in subchapters B, C, D, and G, in a State or States other than the State in which the veterinarian was initially accredited.

Accredited veterinarians are assigned to one of two categories under which they are authorized to perform accredited duties on certain types of animals. As noted in § 161.1(b) of the current regulations, those accredited under Category I are authorized to perform duties on Category I animals only, while veterinarians accredited under Category II are authorized to perform duties on animals listed in both Category I and Category II. Category I animals are currently defined as “any animals other than Category II animals, e.g., cats and dogs,” and Category II animals are defined as “food and fiber animal species; horses; birds; farm-raised aquatic animals; all other livestock species; and zoo animals that can transmit exotic animal diseases to livestock.”

In § 160.1, we propose to revise the current definition for *Category I animals* to address confusion voiced by stakeholders as to which animals fall under that category, as the current definition of *Category I animals* does not actually list the animals covered. The revised definition for *Category I animals* would state “All animals except: Food and fiber species, horses, birds, farm-raised aquatic animals, all other livestock species, and zoo animals that can transmit exotic animal diseases to livestock.” Accordingly, we would revise the definition for *Category II animals* to include “all animals.” This helps to clarify the point that veterinarians accredited under Category II may perform duties on all animal species.

In § 160.1, *official certificate, form, record, report, tag, band, or other identification* is currently defined as any certificate, form, record, report, tag, band, or other identification, prescribed by statute or by regulations issued by the Administrator, for use by an accredited veterinarian performing official functions.

We propose to amend that definition by adding “document” and “seal” to the term and revising the definition to read “Any certificate, document, seal, form, record, report, tag, band, or other identification, prescribed by statute or by regulations issued or a State form approved by the Administrator, for use by an accredited veterinarian performing official functions under this subchapter.” We are proposing this change in order to reflect the current use of State-issued documents and seals approved by the Administrator by an accredited veterinarian performing official functions.

In §§ 160.1, 161.2(a), 161.4, 161.6(c), 162.11, and 162.12 of the regulations, the veterinary official of APHIS assigned by the Administrator to supervise and perform the official work of APHIS in a State or group of States is currently referred to as the *Veterinarian-in-Charge*.

We propose to replace the term *Veterinarian-in-Charge* with *Program official* in each of the above sections and paragraphs noted. This proposed change provides the flexibility to cover changes to official titles in VS.

Other Changes

Section 161.1 includes accreditation requirements and application procedures for veterinary accreditation. An accreditation requirement in paragraph § 161.1(e)(2) states in part that the veterinarian must be “licensed or legally able to practice veterinary medicine in the State in which the veterinarian wishes to perform accredited duties.” We would amend this requirement in order to clarify that an unlicensed veterinarian is legally able to practice veterinary medicine in a State provided that the veterinarian is granted written permission to do so by that State’s veterinary licensing authority.

Another accreditation requirement includes participation in an orientation that covers animal health regulations, disease control programs, and ethical responsibilities. The introduction to these topics in § 161.1(e)(4) refers to a “core orientation program.” For consistency with other references to the orientation program in the regulations, we propose to remove the word “core.”

Section 161.2, “Performance of accredited duties in different States,” requires that an accredited veterinarian wishing to perform accredited duties in a State other than the State in which he or she was initially accredited complete an application to request authorization to perform accredited duties in the new State. We propose to replace all references to “new” State in § 161.2 to “additional” State and replace “different” with “additional” in the section heading. This replacement would improve consistency of language within the regulations with no new requirements.

Section 161.2(b) requires that an accredited veterinarian not perform accredited duties in a State in which he or she is not licensed or legally able to practice veterinary medicine. We propose to amend paragraph § 161.2(b) to clarify that VS may accept documentation issued by a State’s veterinary licensing authority as a basis to verify the accreditation eligibility of unlicensed veterinarians in the same way that a license serves to verify eligibility for licensed veterinarians. The proposed change would state that “an accredited veterinarian may not perform accredited duties in a State in which the accredited veterinarian is not licensed or in possession of a document from the State’s veterinary licensing authority that he or she is legally able to practice veterinary medicine in that State without a license.”

Executive Orders 13771 and 12866 and Regulatory Flexibility Act

This proposed rule has been determined to be not significant for the purpose of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget. This proposed rule is not expected to be an Executive Order 13771 regulatory action because the proposed rule is not significant under Executive Order 12866.

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

The mission of the NVAP is to provide accredited veterinarians with the information they need to ensure the health of the nation’s livestock and animal population and to protect public health and well-being. APHIS relies on

accredited veterinarians to carry out many program duties.

APHIS is not proposing new regulatory requirements, but rather amending the regulations governing the NVAP by adding, updating, or clarifying certain definitions and terminology in 9 CFR parts 160, 161, and 162 that pertain to veterinary accreditation.

There are approximately 108,000 veterinarians in the United States, of which about 69,000 are accredited under the NVAP. According to the Small Business Administration, entities that provide veterinary services (classified under NAICS 541940) are considered to be small if they have \$7,500,000 or less in annual receipts. Therefore, many veterinarians would be considered small entities. However, because this action amends and clarifies definitions for the NVAP and is purely administrative, it would not impose new or additional burdens on APHIS accredited veterinarians or those veterinarians seeking accreditation. Thus, no economic impact is anticipated.

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

Executive Order 12372

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

Executive Order 12988

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

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection requirements included in this proposed rule are approved by the Office of Management and Budget (OMB) under OMB control number 0579-0297.

E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to

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

List of Subjects in 9 CFR Parts 160, 161, and 162

Administrative practice and procedure, Reporting and recordkeeping requirements, Veterinarians.

Accordingly, we propose to amend 9 CFR parts 160, 161, and 162 as follows:

PART 160—DEFINITION OF TERMS

■ 1. The authority citation for part 160 continues to read as follows:

Authority: 7 U.S.C. 8301-8317; 15 U.S.C. 1828; 7 CFR 2.22, 2.80, and 371.4.

■ 2. Section 160.1 is amended as follows.

■ a. By adding, in alphabetical order, a definition for *Accreditation*;

■ b. In the definition of *Accredited veterinarian*, by removing the words “B, C, and D” and adding the words “B, C, D, and G” in their place;

■ c. By adding in alphabetical order a definition for *Authorization*;

■ d. By revising the definitions of *Category I animals* and *Category II animals*;

■ e. By revising the definition of *Official certificate, form, record, report, tag, band, or other identification*;

■ f. By adding in alphabetical order a definition for *Program official*; and

■ g. By removing the definition of *Veterinarian-in-Charge*.

The additions and revisions read as follows:

§ 160.1 Definitions.

* * * * *

Accreditation. The action of the Administrator initially approving a veterinarian in accordance with the provisions of part 161 of this subchapter to perform functions specified in subchapters B, C, D, and G, in one State.

* * * * *

Authorization. The action of the Administrator approving an accredited veterinarian in accordance with the provisions of part 161 of this subchapter to perform functions specified in subchapters B, C, D, and G, in a State or States other than the State in which the veterinarian was initially accredited.

* * * * *

Category I animals. All animals except: Food and fiber species, horses, birds, farm-raised aquatic animals, all other livestock species, and zoo animals that can transmit exotic animal diseases to livestock.

Category II animals. All animals.

* * * * *

Official certificate, document, seal, form, record, report, tag, band, or other identification. Any certificate, document, seal, form, record, report, tag, band, or other identification, prescribed by statute or by regulations issued or a State form approved by the Administrator, for use by an accredited veterinarian performing official functions under this subchapter.

Program official. The veterinary official of APHIS who is assigned by the Administrator to supervise and perform the official work of APHIS in a State or group of States.

* * * * *

PART 161—REQUIREMENTS AND STANDARDS FOR ACCREDITED VETERINARIANS AND SUSPENSION OR REVOCATION OF SUCH ACCREDITATION

■ 3. The authority citation for part 161 continues to read as follows:

Authority: 7 U.S.C. 8301-8317; 15 U.S.C. 1828; 7 CFR 2.22, 2.80, and 371.4.

■ 4. Section 161.1 is amended as follows:

■ a. By revising paragraph (e)(2);

■ b. In paragraph (e)(4) introductory text by removing the word “core”; and

■ c. In paragraph (g)(2)(xi) by removing the words “B, C, and D” and adding the words “B, C, D, and G” in their place.

The revision reads as follows:

§ 161.1 Statement of purpose; requirements and application procedures for accreditation.

* * * * *

(e) * * *

(2) The veterinarian is licensed to practice veterinary medicine in the State in which the veterinarian wishes to perform accredited duties. An unlicensed veterinarian is legally able to practice veterinary medicine in a State provided that the veterinarian is granted written authorization by that State’s veterinary licensing authority, but such authorization may limit practice to specific geographical areas and activities within the State. APHIS will confirm the licensing or legal status of the applicant by contacting the State board of veterinary medical examiners or any similar State organization that maintains records of veterinarians

licensed or otherwise legally able to practice in a State;

* * * * *

■ 5. Section 161.2 is amended as follows:

- a. By revising the section heading;
- b. In paragraph (a) by removing the words “new State” each time they occur and adding the words “additional State” in their place and by removing the words “Veterinarian-in-Charge” each time they occur and adding the words “Program official” in their place;
- c. By revising paragraph (b); and
- d. In paragraph (c) by removing the words “new State” and adding the words “additional State” in their place.

The revisions read as follows:

§ 161.2 Performance of accredited duties in additional States.

* * * * *

(b) An accredited veterinarian may not perform accredited duties in a State in which the accredited veterinarian is not licensed or in possession of a document from the State’s veterinary licensing authority indicating that he or she is legally able to practice veterinary medicine in that State without a license.

* * * * *

§ 161.4 [Amended]

■ 6. Section 161.4 is amended by removing the words “Veterinarian-in-Charge” each time they occur and adding the words “Program official” in their place.

§ 161.6 [Amended]

■ 7. Section 161.6 is amended by removing the words “Veterinarian-in-Charge” each time they occur and adding the words “Program official” in their place.

§ 161.7 [Amended]

■ 8. In § 161.7 paragraph (a) is amended by removing the words “B, C, and D” and adding the words “B, C, D, and G” in their place.

PART 162—RULES OF PRACTICE GOVERNING REVOCATION OR SUSPENSION OF VETERINARIANS’ ACCREDITATION

■ 9. The authority citation for part 162 continues to read as follows:

Authority: 7 U.S.C. 8301–8317; 15 U.S.C. 1828; 7 CFR 2.22, 2.80, and 371.4.

Subpart B [Amended]

■ 10. Subpart B is amended by removing the words “Veterinarian-in-Charge” each time they occur and adding the words “Program official” in their place.

Done in Washington, DC, this 4th day of March 2019.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2019–04166 Filed 3–7–19; 8:45 am]

BILLING CODE 3410–34–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1026

[Docket No. CFPB–2019–0011]

RIN 3170–AA84

Advance Notice of Proposed Rulemaking on Residential Property Assessed Clean Energy Financing

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) is issuing this Advance Notice of Proposed Rulemaking (ANPR) to solicit information relating to residential Property Assessed Clean Energy (PACE) financing. The Bureau will consider the information it receives in response to this ANPR in implementing section 307 of the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA). In relevant part, EGRRCPA section 307 amends the Truth in Lending Act (TILA) to mandate that the Bureau prescribe certain regulations relating to PACE financing. Specifically, the regulations must carry out the purposes of TILA’s ability-to-repay (ATR) requirements, currently in place for residential mortgage loans, with respect to PACE financing, and apply TILA’s general civil liability provision for violations of the ATR requirements the Bureau will prescribe for PACE financing. The regulations must “account for the unique nature” of PACE financing. This ANPR solicits information to better understand the PACE financing market and the unique nature of PACE financing.

DATES: Comments must be received by May 7, 2019.

ADDRESSES: You may submit responsive information and other comments, identified by Docket No. CFPB–2019–0011, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Email:* PACEFinancingANPR@cfpb.gov. Include Docket No. CFPB–2019–0011 in the subject line of the message.

- *Mail:* Comment Intake, Bureau of Consumer Financial Protection, 1700 G Street NW, Washington, DC 20552.

- *Hand Delivery/Courier:* Comment Intake, Bureau of Consumer Financial Protection, 1700 G Street NW, Washington, DC 20552.

Instructions: When responding to a particular question, please note the question number at the top of the response. Also, where applicable, please note whether any information provided is relevant to a PACE financing program that is specific to a particular jurisdiction or administrator.

You are not required to answer all questions to receive consideration of your comments. The Bureau encourages the early submission of comments. All submissions must include the document title and docket number.

Because paper mail in the Washington, DC area and at the Bureau is subject to delay, commenters are encouraged to submit comments electronically. In general, all comments received will be posted without change to <http://www.regulations.gov>. In addition, comments will be available for public inspection and copying at 1700 G Street NW, Washington, DC 20552, on official business days between the hours of 10:00 a.m. and 5:00 p.m. eastern standard time. You can make an appointment to inspect the documents by telephoning 202–435–7275.

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

FOR FURTHER INFORMATION CONTACT: Rachel Ross, Attorney-Advisor; Joel Singerman, Counsel; or Nora Rigby, Senior Counsel; at (202)–435–7700. If you require this document in alternative electronic format, please contact CFPB_Accessibility.cfpb.gov.

SUPPLEMENTARY INFORMATION: The Bureau is issuing this ANPR to solicit information relating to residential PACE financing.¹ The Bureau will consider the information it receives in implementing EGRRCPA section 307, which was enacted by Congress on May

¹ Although some jurisdictions may make PACE financing available for commercial projects, this ANPR solicits information relating only to residential PACE financing, in accord with EGRRCPA section 307, which defines PACE financing as available for home improvements. The Bureau is not soliciting information about commercial PACE financing.

22, 2018, and signed into law on May 24, 2018.²

As defined in EGRRCPA, PACE financing is “financing to cover the costs of home improvements that results in a tax assessment on the real property of the consumer.”³ Section 307 amends TILA to direct regulatory action on PACE financing. It provides in relevant part that the Bureau shall prescribe regulations that (1) carry out the purposes of TILA section 129C(a), and (2) apply TILA section 130 with respect to violations under TILA section 129C(a) with respect to PACE financing, which shall account for the unique nature of PACE financing.⁴

This provision directs the Bureau to prescribe regulations that achieve two objectives and account for the unique nature of PACE financing. As to the first objective, the regulations must “carry out the purposes of” TILA’s existing ATR requirements. In general, the existing ATR requirements prohibit creditors from making a residential mortgage loan unless the creditor makes a reasonable and good faith determination based on verified and documented information that, at the time the loan is consummated, the consumer has a reasonable ability to repay the loan according to its terms, and all applicable taxes, insurance, and assessments.⁵ In making that determination, a creditor is required to consider specific factors about the consumer’s finances, including, for example, the consumer’s income, assets, and debt obligations, and to verify the income or asset amounts it relied upon to determine the consumer’s repayment ability.⁶ TILA states that the purpose of the ATR requirements is “to assure that consumers are offered and receive residential mortgage loans on terms that reasonably reflect their ability to repay the loans and that are understandable and not unfair, deceptive, or abusive.”⁷

As to the second objective, the regulations implementing EGRRCPA section 307 must apply TILA’s general civil liability provision for violations of

the ATR rules that will apply to PACE financing. That provision sets forth damages for TILA violations generally,⁸ as well as specific penalties for violations of the current ATR requirements.⁹

The Bureau is soliciting information through this ANPR that it believes will be helpful in developing a proposed rule that will meet these objectives and accounts for the unique nature of PACE financing. The Bureau is seeking five categories of information: (1) Written materials associated with PACE financing transactions; (2) descriptions of current standards and practices in the PACE financing origination process; (3) information relating to civil liability under TILA for violations of the ATR requirements in connection with PACE financing, as well as rescission and borrower delinquency and default; (4) information about what features of PACE financing make it unique and how the Bureau should address those unique features; and (5) views concerning the potential implications of regulating PACE financing under TILA. The Bureau anticipates that the information solicited will enable the Bureau to better understand the market and unique nature of PACE financing. This will help the Bureau formulate proposed regulations in a balanced manner, achieving the statutory objectives discussed above while avoiding the imposition of unnecessary or undue burden on industry.

The Bureau hopes to receive information reflecting the diversity of residential PACE financing transactions in the market. Where applicable, please specify whether any information provided applies to a PACE financing program that is specific to a particular jurisdiction or administrator. When responding to a particular question, please note the question number at the top of the response.

The Bureau invites comment on all aspects of the ANPR from all interested parties, including consumers, consumer advocacy groups, State and local governments, other PACE financing industry participants, or other members of the public. In the event that a respondent may have concerns about revealing proprietary or personal

information, the Bureau welcomes comments from attorneys, consumer advocacy organizations, trade associations, or other representatives that do not identify their clients.

I. Written Materials Associated With PACE Financing Transactions

To better understand PACE financing transactions and potential areas of consumer risk, the Bureau is interested in receiving samples of any written materials used in PACE financing transactions. Please consider submitting samples of, for example, any contractual agreements, written materials provided to consumers before they sign a PACE financing agreement, and bills or statements that provide payment information to consumers. Please redact any personally identifiable information before submission.

II. Current Standards and Practices in the PACE Financing Origination Process

As described above, EGRRCPA section 307 requires the Bureau to prescribe regulations for PACE financing that carry out the purposes of TILA’s existing ATR requirements while accounting for the unique nature of PACE financing. In general, TILA’s existing ATR requirements prohibit creditors from making a residential mortgage loan unless the creditor makes a reasonable and good faith determination based on verified and documented information that, at the time the loan is consummated, the consumer has a reasonable ability to repay the loan according to its terms, and all applicable taxes, insurance, and assessments.¹⁰ Developing an ATR rule for PACE financing that takes into account its unique nature will require a thorough understanding of origination and underwriting processes, including the roles and responsibilities of participating parties. Questions in this category solicit information to that end.

1. Please provide information about the process of obtaining a consumer’s application for PACE financing, including what documentation is required from consumers or third parties, what information is verified, and how any information is collected. What information gathered as part of the application process relates to the consumer’s ability to repay? Which parties collect the application information? How are policies and procedures relevant to the application process established?

2. Please describe current underwriting standards and how they

² Public Law 115–174, 132 Stat. 1296 (2018).

³ EGRRCPA section 307, amending TILA section 129C(b)(3)(C)(i), 15 U.S.C. 1639c(b)(3)(C)(i).

⁴ EGRRCPA section 307, amending TILA section 129C(b)(3)(C)(ii), 15 U.S.C. 1639c(b)(3)(C)(ii).

⁵ EGRRCPA section 307 also includes amendments authorizing the Bureau to “collect such information and data that the Bureau determines is necessary” in prescribing the regulations and requiring the Bureau to “consult with State and local governments and bond-issuing authorities.”

⁶ The ATR requirements are set forth in TILA section 129C(a), 15 U.S.C. 1639c(a). The Bureau has issued regulations implementing TILA’s ATR requirements. See 12 CFR 1026.43.

⁷ See TILA section 129C(a), 15 U.S.C. 1639c(a).

⁸ TILA section 129B(a)(2), 15 U.S.C. 1639b(a)(2).

⁸ See generally TILA section 130, 15 U.S.C. 1640.

⁹ See TILA section 130(a)(4), 15 U.S.C. 1640(a)(4) (providing liability for failure to comply with requirements in the ATR provisions in “an amount equal to the sum of all finance charges and fees paid by the consumer, unless the creditor demonstrates that the failure to comply is not material.”); see also TILA section 130(k), 15 U.S.C. 1640(k) (generally providing that consumers facing foreclosure may assert a violation of the ATR provisions, among other provisions, as a defense by recoupment or setoff).

¹⁰ See TILA section 129C(a), 15 U.S.C. 1639c(a).

are established. Does underwriting commonly include a determination of consumers' ability to repay the financing? If so, which parties conduct that analysis, and what factors are considered in that determination?

3. Please provide information about the process for approving or denying PACE financing applications. For example, which parties determine consumer eligibility or make any offer to the consumer? Which parties are involved in determining the financing terms, and how do they do so for each consumer?

4. Please provide information about any written information provided to consumers before they sign a PACE financing agreement, including relevant contracts or written disclosures. Who delivers these materials, in what format, and when during the origination process?

5. Please describe any information provided to consumers orally before they sign a PACE financing agreement. Who provides the information and at what point during the origination process?

6. TILA's existing ATR requirements apply to "creditors," defined in part as the parties to whom debt obligations are "initially payable on the face" of the agreements.¹¹ In PACE financing transactions, to which parties may the obligations be made "initially payable on the face" of the financing agreements? Please describe any requirements in State or local law governing to which parties PACE financing obligations may be made initially payable on the face of the financing agreements.

7. To the extent not addressed above, please describe the role of State or local governments in the origination and underwriting of PACE financing.

8. Please describe any relationship between the PACE financing agreement and the home improvement agreement. For example, do they involve separate contracts? Do consumers sign them concurrently? If a consumer is denied for the PACE financing, what is the effect on the consumer's obligations under the home improvement contract?

9. To the extent not already addressed, please provide any information that may help the Bureau understand the origination process or any risks or benefits it produces for consumers.

III. Civil Liability Under TILA for Violations of ATR Requirements in Connection With PACE Financing, as Well as Rescission and Borrower Delinquency and Default

As noted above, EGRRCPA section 307 requires that the Bureau prescribe regulations that apply TILA section 130 to violations of the ATR rules that will apply to PACE financing, and that account for the unique nature of PACE financing. Section 130 sets forth TILA's general civil liability requirements; and, with respect to violations of the existing ATR requirements, it allows for recovery of an amount equal to the sum of all finance charges and fees paid by the consumer and provides borrowers a foreclosure defense. In conjunction with questions elsewhere in this ANPR, the information solicited in this category is intended to help the Bureau identify the parties in a PACE financing transaction to whom TILA section 130 might apply and which parties would in fact bear the risk of any such liability. Additionally, this category of questions solicits information about any rescission rights available to consumers and what occurs when a homeowner becomes delinquent on a PACE financing obligation.

10. Please provide any information about the assignment or sale, including securitization, of PACE financing agreements or the rights and obligations therein, and the circumstances surrounding any assignment or sale.

11. Please describe any indemnification agreements that are commonly part of PACE financing transactions, whether involving local governments, private parties administering PACE financing programs, secondary market participants, home improvement companies, or others.

12. Please describe any rescission rights available to consumers with respect to PACE financing agreements or home improvement contracts, whether by virtue of the agreements or applicable State or local law.

13. Please provide information about what happens to PACE financing obligations when a consumer becomes delinquent or defaults. For example, please provide information about any loss mitigation programs available to consumers, any pre-foreclosure collection attempts, or foreclosure processes when applicable. Which parties are involved, and what are their roles?

IV. Features of PACE Financing That Make It Unique and How the Bureau Should Address Those Unique Features

As noted above, the regulations implementing EGRRCPA section 307

must account for the "unique nature" of PACE financing. Questions in this category solicit information that may be relevant to understanding the unique nature of PACE financing. They include questions about the structure, funding, and repayment of PACE financing transactions, and the relationship to local property tax systems.

14. EGRRCPA section 307 defines PACE financing as "financing to cover the costs of home improvements that results in a tax assessment on the real property of the consumer." Please identify any public or private financing options that may satisfy this definition, whether or not commonly understood to be PACE financing.

15. Please provide information about the source of funding for PACE financing transactions. For example, are the transactions funded with public or private capital? Which parties supply the capital used to pay the contractors installing the home improvement projects?

16. Please describe the role of public bonds in PACE financing transactions. Please identify the bond-issuing authorities. What is the timing of bond issuance? Who purchases the bonds, and what effect does the purchase have? Where public bonds are not involved in PACE financing transactions, please describe the role of any other public financing mechanisms.

17. Please provide information about consumer repayment. For example:

i. When does repayment begin after the financing agreement is signed?

ii. How frequently are payments made?

iii. Are payments roughly equal throughout a consumer's full financing term, or can payments change? Are interest rates fixed or variable? Are balloon payments required? If so, in what circumstances? Do PACE financing agreements always provide for full amortization?

iv. To which parties do consumers make payments? Does the party to which consumers make payments ever change over the life of the financing agreement? If so, in what circumstances does this occur and why?

v. After a consumer remits a payment, how is the payment distributed, and by whom?

vi. Please describe any changes to payments or payment processes when a consumer becomes delinquent or defaults.

vii. Please describe any differences to payments or payment processes when a consumer has a mortgage loan with an escrow account for taxes.

18. Please describe how PACE financing is integrated with local

¹¹ See 15 U.S.C. 1602(g).

property tax systems and how specific information about the PACE financing obligation is distinguished from other real property tax obligations in the tax system. Who monitors repayment of the PACE financing?

19. To the extent not addressed above, please describe the role of State and local governments in PACE financing programs or individual PACE financing transactions following origination. Please identify any State or local government entities with regulatory or oversight authority over PACE financing or industry participants.

20. Please describe any financial costs to consumers that may be associated with PACE financing transactions, including, for example, costs resulting from interest, points, fees, or penalties. How do costs for home improvement projects financed using PACE financing compare to costs for comparable projects financed through other means?

21. Please describe any cost savings associated with home improvement projects funded with PACE financing, including, for example, utility savings or tax credits authorized under State or Federal law for PACE-eligible projects. Are projected savings calculated before PACE financing contracts are executed? If so, how, and over what period of time? Are actual savings tracked, and, if so, how do they compare with the projections?

22. In general, does the addition of PACE financing affect consumers' ability to meet their financial obligations? Please describe any such effects and why they may occur.

23. Please provide information about the liens associated with PACE financing. How do they differ from liens securing other property tax obligations that may encumber residential real property? Do PACE financing liens arise by operation of law or contract?

24. Please provide information about the treatment of PACE financing obligations by servicers of mortgage loans responsible for servicing mortgages that were placed on the property before the PACE financing encumbrance. For example, do mortgage servicers typically administer PACE financing obligations through escrow accounts? Please describe the relevant processes and any effects on the mortgage servicer or the consumer. How quickly after PACE assessments are added do mortgage servicers learn about the increase to the consumer's property tax bill? How quickly do mortgage servicers adjust consumers' escrow payments, where applicable, to reflect the change?

25. To the extent not already addressed, please provide any

additional information about the unique nature of PACE financing, how the Bureau's regulations should account for the unique nature, and any risks or benefits to consumers or industry participants attributable to the unique nature.

V. Potential Implications of Regulating PACE Financing Under TILA

As described above, EGRRCPA section 307 requires the Bureau to issue regulations applying TILA's ATR and general civil liability provisions (as implemented through Regulation Z) to PACE financing, accounting for the unique nature of PACE financing. In this category of questions, the Bureau solicits information relating to how the existing TILA and Regulation Z provisions could be applied to PACE financing to implement EGRRCPA section 307. This information will assist the Bureau in developing a proposed rule adapting existing TILA and Regulation Z standards in light of potential impacts on consumers and industry and any implementation challenges specific to PACE financing.

26. If existing ATR requirements in TILA and Regulation Z were to apply to PACE financing transactions, please describe any likely effects on State and local governments or bond-issuing authorities.

27. Please describe any likely effects of such application on consumers or PACE financing industry participants.

28. If applied to PACE financing transactions, which specific ATR provisions under TILA and Regulation Z, if any, would conflict with existing State or local legal requirements, and how? What steps could the Bureau take to mitigate those conflicts?

29. Which specific ATR provisions under TILA and Regulation Z would be difficult for market participants to apply to current PACE financing origination practices, bond processes, or laws and practices implicating real property tax systems, and why would they be difficult to apply?

30. Which specific ATR provisions under TILA and Regulation Z, if any, would be beneficial for consumers, and how? Which, if any, would not provide consumer benefits, and why not?

31. How could TILA's existing ATR requirements be tailored to account for the unique nature of PACE financing? Are there unique aspects of PACE financing that are relevant to whether and how the existing ATR requirements should apply, including the documentation and verification requirements or the specific information required as part of the analysis?

32. As described above, EGRRCPA section 307 requires the Bureau to apply TILA section 130 to violations of the ATR requirements that the Bureau will prescribe for PACE financing. Please provide your views on any likely impacts on consumers or PACE financing market participants of applying TILA section 130. Please describe any other concerns associated with applying TILA liability to PACE financing, including but not limited to TILA section 130.

33. Please share your views on whether the Bureau should address the application of TILA and Regulation Z provisions other than the ATR requirements to PACE financing, including any potential impacts on consumers, industry, or other stakeholders that may result from any such application.

34. Please share any other comments or concerns about implementing EGRRCPA section 307 under TILA and Regulation Z.

Dated: March 4, 2019.

Kathleen L. Kraninger,
Director, Bureau of Consumer Financial Protection.

[FR Doc. 2019-04177 Filed 3-7-19; 8:45 am]

BILLING CODE 4810-AM-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2019-0117; Product Identifier 2018-NM-169-AD]

RIN 2120-AA64

Airworthiness Directives; 328 Support Services GmbH (Type Certificate Previously Held by AvCraft Aerospace GmbH; Fairchild Dornier GmbH; Dornier Luftfahrt GmbH) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all 328 Support Services GmbH Model 328-100 airplanes. This proposed AD was prompted by a report indicating that undetected cracks may develop at the roll spoiler bearing arms. This proposed AD would require a one-time non-destructive test (NDT) inspection for cracks in the roll spoiler bearing arms and, if necessary, corrective actions. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by April 22, 2019.

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

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

For service information identified in this NPRM, contact 328 Support Services GmbH, Global Support Center, P.O. Box 1252, D-82231 Wessling, Federal Republic of Germany; telephone +49 8153 88111 6666; fax +49 8153 88111 6565; email gsc.op@328support.de; internet <http://www.328support.de>. You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195.

Examining the AD Docket

You may examine the AD docket on the internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2019-0117; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations (phone: 800-647-5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Todd Thompson, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206-231-3228.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about

this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include “Docket No. FAA-2019-0117; Product Identifier 2018-NM-169-AD” at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. We will consider all comments received by the closing date and may amend this NPRM because of those comments.

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

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2018-0254, dated November 23, 2018 (referred to after this as the Mandatory Continuing Airworthiness Information, or “the MCAI”), to correct an unsafe condition for all 328 Support Services GmbH Model 328-100 airplanes. The MCAI states:

Dornier 328 Maintenance Review Board Report provides instructions for a detailed inspection for the roll spoilers, including the bearing arms, by eddy current [EC] method. It was reported that whilst performing Maintenance Planning Document Task 57-71-03-02-01, referring to Non-Destructive Test (NDT) Manual task 57-71-03-318-000-AA0, the stacking of 6 parts at the bearing arm No. 3 prevents detection of cracks with the given EC test settings. The NDT results are distorted by geometric features such as part edges and fastener installations. Furthermore, the access to certain areas is limited for the suggested NDT probe for geometrical reasons. The result of the technical investigation identified that undetected cracks may develop at the roll spoiler bearing arms, leading to a broken (disconnected) bearing arm No. 3, where the actuator is connected.

This condition, if not detected and corrected, could lead to a roll spoiler becoming unresponsive to flight crew control inputs, possibly resulting in loss of control of the aeroplane.

To address this potential unsafe condition, 328 SSG published the ASB [328 Support Services Alert Service Bulletin ASB-328-57-043, dated September 21, 2018] to provide appropriate inspection instructions.

For the reasons described above, this [EASA] AD requires a one-time NDT

inspection of the affected parts and, depending on findings, accomplishment of applicable corrective action(s) [repair of cracked parts].

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-2019-0117.

Related Service Information Under 1 CFR Part 51

328 Support Services has issued Alert Service Bulletin ASB-328-57-043, dated September 21, 2018. This service information describes procedures for a one-time NDT inspection for cracks in the roll spoiler bearing arms. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA’s Determination

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

Proposed Requirements of This NPRM

This proposed AD would require accomplishing the actions specified in the service information described previously.

Differences Between This Proposed AD and the MCAI or Service Information

Although the MCAI and 328 Support Services Alert Service Bulletin ASB-328-57-043, dated September 21, 2018, specify to submit certain information to the manufacturer, this AD does not include that requirement.

Costs of Compliance

We estimate that this proposed AD affects 27 airplanes of U.S. registry. We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
8 work-hours × \$85 per hour = \$680	\$0	\$680	\$18,360

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

Authority for This Rulemaking

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

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

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

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national

Government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

328 Support Services GmbH (Type Certificate Previously Held by AvCraft Aerospace GmbH; Fairchild Dornier GmbH; Dornier Luftfahrt GmbH): Docket No. FAA–2019–0117; Product Identifier 2018–NM–169–AD.

(a) Comments Due Date

We must receive comments by April 22, 2019.

(b) Affected ADs

None.

(c) Applicability

This AD applies to 328 Support Services GmbH (Type Certificate previously held by AvCraft Aerospace GmbH; Fairchild Dornier GmbH; Dornier Luftfahrt GmbH) Model 328–100 airplanes, certificated in any category, all serial numbers.

(d) Subject

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

(e) Reason

This AD was prompted by a report indicating that undetected cracks may develop at the roll spoiler bearing arms. We are issuing this AD to address cracks at the roll spoiler bearing arms, which, if not detected and corrected, could lead to a roll spoiler becoming unresponsive to flight crew control inputs, possibly resulting in loss of control of the airplane.

(f) Compliance

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

(g) Definition of Affected Parts

For the purposes of this AD, an affected part is the bearing arm of roll spoilers having part number (P/N) 001B577A1200000, 001B577A1200001, 001B577A1200002, 001B577A1200003, 001B577A1200004, or 001B577A1200005.

(h) Inspection

Within the compliance time specified in Figure 1 to paragraph (h) of this AD, as applicable, do a non-destructive test (NDT) inspection of each affected part in accordance with the Accomplishment Instructions of 328 Support Services Alert Service Bulletin ASB–328–57–043, dated September 21, 2018. The flight cycles (FC) specified in Figure 1 to paragraph (h) of this AD are the FC accumulated on the airplane since first flight of the airplane, unless otherwise specified.

Figure 1 to paragraph (h) of this AD – Affected Parts Inspection

Total FC Accumulated	Compliance Time
More than 25,000 FC	Within 2,500 FC after the effective date of this AD
25,000 FC or less	Before exceeding 25,000 total FC, or within 2,500 FC after the effective date of this AD, whichever occurs later

(i) Corrective Action

If any crack is found during any inspection required by paragraph (h) of this AD: Before further flight, obtain corrective actions approved by the Manager, International Section, Transport Standards Branch, FAA; or the European Aviation Safety Agency (EASA); or 328 Support Services GmbH's EASA Design Organization Approval (DOA); and accomplish the corrective actions within the compliance time specified therein. If approved by the DOA, the approval must include the DOA-authorized signature.

(j) No Reporting Requirement

Although 328 Support Services Alert Service Bulletin ASB-328-57-043, dated September 21, 2018, specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(k) 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 (l)(2) of this AD. Information may be emailed to: 9-ANM-116-AMOC-REQUESTS@faa.gov. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer*: For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or EASA; or 328 Support Services GmbH's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

(l) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2018-0254, dated November 23, 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-2019-0117.

(2) For more information about this AD, contact Todd Thompson, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206-231-3228.

(3) For service information identified in this AD, contact 328 Support Services GmbH, Global Support Center, P.O. Box 1252, D-82231 Wessling, Federal Republic of Germany; telephone +49 8153 88111 6666; fax +49 8153 88111 6565; email gsc.op@328support.de; internet <http://www.328support.de>. You may view this

service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195.

Issued in Des Moines, Washington, on February 28, 2019.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2019-04144 Filed 3-7-19; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF COMMERCE**Bureau of Industry and Security****15 CFR Part 774**

[Docket No. 181010936-8936-01]

RIN 0694-AH66

**Request for Public Comments
Regarding Review of Commerce
Control List for Items Transferred
From United States Munitions List
Categories IV and XV**

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Advanced notice of proposed rulemaking.

SUMMARY: As part of its work with the National Space Council, the Bureau of Industry and Security, Department of Commerce requests public comment to inform its review of the controls implemented in recent revisions to Categories IV and XV of the United States Munitions List (USML) and the related transfer of items to the Department of Commerce's Commerce Control List (CCL). These items include launch vehicles, guided missiles, ballistic missiles, rockets, torpedoes, bombs, and mines; and spacecraft and related articles. BIS's review seeks to ensure that the CCL describes these items clearly, captures those items in normal commercial use, accounts for technological developments, and implements the national security and foreign policy objectives of the United States properly.

DATES: Comments must be received by BIS no later than April 22, 2019.

ADDRESSES: Comments may be submitted through the Federal rulemaking portal (<http://www.regulations.gov>). The www.regulations.gov ID number for this rule is BIS-2018-0029. All comments (including any personally identifying information) will be made available for public inspection and copying.

FOR FURTHER INFORMATION CONTACT: For questions regarding launch vehicles,

guided missiles, ballistic missiles, rockets, torpedoes, bombs, and mines (Export Control Classification Numbers (ECCNs) 0A604, 0B604, 0D604, 0E604, 9A604, 9B604, 9D604, and 9E604), contact Jeffrey Leitz, Senior Staff Engineer, Munitions Control Division, Office of Strategic Industries and Economic Security at (202) 482-7417 or Jeffrey.Leitz@bis.doc.gov. For questions regarding spacecraft and related items (ECCNs 9A515, 9B515, 9D515, and 9E515), contact Dennis Krepp, Director, Sensors and Aviation Division, Office of National Security and Technology Transfer Controls at (202) 482-1309 or Dennis.Krepp@bis.doc.gov.

SUPPLEMENTARY INFORMATION:**Background**

The Bureau of Industry and Security (BIS), Department of Commerce, maintains the CCL under the Export Administration Regulations (EAR). To ensure controls align with the national security and foreign policy objectives of the U.S. Government, the USML and the CCL must be regularly reviewed and updated to account for technological developments, issues related to the practical application of these controls, and changes in the military and commercial applications of items covered by the USML or by the corresponding "600 series" and 9x515 ECCNs on the CCL.

Consistent with the objectives in Space Policy Directive-2 (available at <https://www.whitehouse.gov/presidential-actions/space-policy-directive-2-streamlining-regulations-commercial-use-space/>), this Advanced Notice of Proposed Rulemaking (ANPRM), seeks public comments to inform a review of those items on the CCL implemented in connection with the recent removal of articles from Categories IV (79 FR 34, January 2, 2014) and XV (82 FR 2889, January 10, 2017) of the USML and the placement of those items on the CCL. BIS seeks to ensure the CCL includes clear descriptions, captures items in normal commercial use, takes into account technological developments, and implements the national security and foreign policy objectives of the United States properly.

In particular, BIS seeks comment on ways to thoughtfully streamline export control regulations for both the U.S. commercial space industry as well as our international partners to lower administrative burden, decrease regulatory compliance costs as well as increase exports thereby bolstering the U.S. space commercial sector and industrial base.

Request for Comments

1. For technologies controlled under ECCN 9A515—examples include habitats, planetary rovers, and planetary systems such as communications and power—what factors or specific technologies should be considered for movement to a different ECCN or paragraph under ECCN 9A515 with less stringent licensing requirements?

2. The USG is considering further refinement or updated controls on the various technologies listed below. Are there additional specific space-related technologies not described in the list which warrant further review by State or Commerce given their current or anticipated near term commercial applications?

- Satellite thrusters (bi-propellant, electric, and liquid apogee engines);
- gyroscopes;
- inertial navigation systems;
- large aperture earth observation cameras;
- spacecraft antenna systems and adaptive Global Navigation Satellite System (GNSS) antennas;
- suborbital systems with propulsion systems currently controlled under USML;
- kapton tape;
- star trackers; and
- astrocompasses.

3. NASA continues to pursue development of the future Lunar Gateway, which may be described in USML Category XV(a). If moved to the CCL, what would be the appropriate controls to apply to items associated with the Lunar Gateway, *e.g.*, ECCNs 9A515 or 9A004?

4. Are there technologies controlled in the USML for either Category IV and XV, which are not currently described or not described with sufficient clarity which the commenter believes should be controlled under the EAR? While this notice discusses specific items based on initial communications with industry, the list is not exhaustive and commenters are encouraged to provide additional examples within both USML categories.

5. Are there specific defense articles which have entered into normal commercial use since the most recent revisions? If so, please provide sufficient detail in describing and identifying the article to support your claim. Commenters may include documentation to support this claim, *e.g.*, product information demonstrating what is currently in the market (web pages describing products and product brochures), or scientific and industry articles, in particular those also describing trends in commercial

products, that resulted from new technologies or manufacturing methods.

6. Are there defense articles for which commercial use is proposed, intended, or anticipated in the next five years? If so, provide sufficient detail in describing and identifying the article to support your claim. Commenters may include documentation to support this claim, *e.g.*, product development or marketing information describing what products will soon to be in the market (web pages describing products under development, press releases related to products under development) or scientific and industry articles, in particular those describing new products that may soon enter the market place as a result of new technologies or manufacturing methods.

7. Are there other technical issues for these items which BIS should address, *e.g.*, the addition of technical notes or defined terms used in the control parameters to make the controls easier to understand and apply consistently?

8. What are the cost savings to private entities by shifting control of additional specific commercial items from the USML to the CCL? To the extent possible, please quantify the current cost of compliance with USML control of an item and any cost savings if a particular change was implemented. Cost savings could include time saved in terms of regulatory uncertainty over whether certain items are regulated as on the USML or the CCL. This reduced uncertainty, under the “bright line” approach of the USML to CCL review process, would allow both BIS and industry to avoid spending hours and resources on case by case determinations for certain items. As much as possible, please quantify time saved, reduction in compliance costs, and reduction in paperwork.

Please note general comments on other aspects of the CCL are outside of the scope of this inquiry.

Dated: February 22, 2019.

Richard E. Ashooh,

Assistant Secretary for Export Administration.

[FR Doc. 2019-04268 Filed 3-7-19; 8:45 am]

BILLING CODE 3510-33-P

DEPARTMENT OF STATE

22 CFR Part 121

[Public Notice 10568; Docket Number DOS-2018-0048]

RIN 1400-AE73

Request for Comments Regarding Review of United States Munitions List Categories IV and XV

AGENCY: Department of State.

ACTION: Advanced notice of proposed rulemaking; request for comments.

SUMMARY: As part of its work with the National Space Council, the Department of State requests comments from the public to inform its review of the controls implemented in recent revisions to Categories IV and XV of the United States Munitions List (USML). The Department periodically reviews USML categories to ensure that they are clear, do not inadvertently control items in normal commercial use, account for technological developments, and properly implement the national security and foreign policy objectives of the United States.

DATES: The Department will accept comments up to April 22, 2019.

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

- *Email:* DDTCPublicComments@state.gov. Please include “USML Categories IV and XV” in the subject line.

- *Internet:* At www.regulations.gov. Follow the instructions for sending comments using docket number, DOS-2018-0048.

Comments submitted through www.regulations.gov will be visible to other members of the public; the Department will publish all comments on the Directorate of Defense Trade Controls website (www.pmdt.state.gov). Therefore, commenters are cautioned not to include proprietary or other sensitive information in their comments.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Monjay, Office of Defense Trade Controls Policy, Department of State, telephone (202) 663-2817; email publiccomments@state.gov. ATTN: Request for Comments Regarding Review of USML Categories IV and XV.

SUPPLEMENTARY INFORMATION: One advantage of revising the USML into a more positive list is its controls can be tailored to satisfy the national security and foreign policy objectives of the U.S. government by maintaining control over those articles that provide a critical military or intelligence advantage, or otherwise warrant control under the

International Traffic in Arms Regulations (ITAR), without inadvertently controlling items in normal commercial use. This approach, however, requires that the list be regularly revised and updated to account for technological developments, practical application issues identified by exporters and reexporters, and changes in the military and commercial applications of items affected by the list.

Request for Comments

Consistent with the objectives in Space Policy Directive-2 (*see* <https://www.whitehouse.gov/presidential-actions/space-policy-directive-2-streamlining-regulations-commercial-use-space/>) the Department is requesting public comments on USML Categories IV (Launch Vehicles) and XV (Spacecraft). In particular, the Department is requesting comment on ways to thoughtfully streamline export control regulations for these categories for the benefit of U.S. industry as well as our international partners. Streamlining controls could lower administrative burden and regulatory compliance costs and present the opportunity for increased exports, thus bolstering the U.S. space commercial sector and industrial base.

For reference, Category IV was most recently fully revised on July 1, 2014 (*see* 79 FR 34, Jan. 2, 2014). Category XV was most recently revised on January 15, 2017 (*see* 82 FR 2889, Jan. 10, 2017). In order for your comments to be most useful, the Department encourages the public to provide comments responsive to the prompts described below. Please note general comments on other aspects of the ITAR, to include other categories of the USML, are outside of the scope of this inquiry. In particular, the Department requests comments on the following.

1. Are there emerging or new technologies that warrant control in one of the referenced categories, but which are not currently described or not described with sufficient clarity?

2. Are there specific defense articles described in the referenced categories that have entered into normal commercial use since the most recent revision of that category? If so, please include documentation to support this claim.

3. Are there defense articles described in the referenced categories for which commercial use is proposed, intended, or anticipated in the next five years? If so, please provide any documentation.

4. Are there other technical issues for these categories which the Department should address?

5. The export control system uses the size of space-based optical telescopes as the technical parameter differentiating between items controlled by the Department of Commerce in Commerce Control List (CCL) Export Control Classification Number (ECCN) 9A515.a.1 and by the Department of State in USML Category XV(a)(7) and XV(e)(2). This is based on physics, and specifically the fact that larger optical telescopes generally can generate higher-resolution images than smaller ones. NASA tends to use larger optical telescopes for astrophysics missions because the celestial bodies these missions observe are many light years away, and smaller optical capabilities cannot physically meet the relevant science requirements. At the same time, because NASA missions are designed and calibrated to observe distant celestial objects, they are physically incapable of observing the Earth, which is so bright relative to distant objects that NASA's telescopes would suffer permanent physical damage if pointed at Earth. Essentially, NASA astrophysics missions form a class of spacecraft which meet the technical definition for national security-sensitive spacecraft regulated by the Department of State, but are incapable of observing the Earth.

In the past, this issue has been addressed by creating separate regulatory categories for specific missions. For example, the James Webb Space Telescope, NASA's next flagship astrophysics mission, was the subject of specific regulatory activity (*see*, 82 FR 2875 and 2889, Jan. 10, 2017) to ensure that it is controlled by the Department of Commerce under ECCN 9A004 even though it otherwise meets the control text of USML Category XV. However, since it would be impractical to issue an updated regulation every time NASA initiates a new astrophysics mission, the Department is seeking comments from the public on a way to provide technical differentiation within U.S. export control regulations between the space-based optical telescopes for astrophysics missions and those used for Earth observation.

6. The control in USML Category XV(a)(7) and XV(e)(2) is based, in part, on the size of the clear aperture of the telescope's optics. However, not all space-based telescopes use a disc-shaped viewer and thus it is not always possible to definitively determine the

size of the "clear aperture" of a specific space-based electro-optical/infrared (E.O./IR) remote sensing system for the purpose of the regulations. Are there suggested revisions that would clarify the scope of Categories XV(a)(7) and XV(e)(2), such as a definition of "clear aperture"?

7. Many spacecraft are designed to provide supplies to the International Space Station and other future space stations. This activity is commonly referred to as "servicing" the space stations, which is an activity that can lead to USML control under Category XV(a)(12). Are there suggested revisions that would clarify the scope of this paragraph, such as a definition of "servicing"?

8. NASA continues to pursue development of the future Lunar Gateway, which may be described in Category XV(a). Are there any public comments regarding the potential control status of the future Lunar Gateway?

9. What are the cost savings to private entities from shifting control of a suggested specific item from USML to the CCL? To the extent possible, please quantify the current cost of compliance with USML control of an item and any cost savings if a particular change was implemented. Cost savings could include time saved in terms of regulatory uncertainty over whether a certain item is regulated as on the USML or the CCL. This reduced uncertainty, under the "bright line" approach described in the Administration's Export Reform Initiative, would allow both State and industry to avoid spending hours and resources on case by case determinations for certain items. As much as possible, please quantify time saved, reduction in compliance costs, and reduction in paperwork for a particular change.

The Department will review all comments from the public. If a rulemaking is warranted based on the comments received, the Department will respond to comments received in a proposed rulemaking in the **Federal Register**.

Dated: March 1, 2019.

Sarah Heidema,

*Director, Defense Trade Control Policy Office,
U.S. Department of State.*

[FR Doc. 2019-04269 Filed 3-7-19; 8:45 am]

BILLING CODE 4710-25-P

DEPARTMENT OF THE TREASURY**Internal Revenue Service****26 CFR Part 1**

[REG–132881–17]

RIN 1545–BO30

Regulations Reducing Burden Under FATCA and Chapter 3; Hearing**AGENCY:** Internal Revenue Service (IRS), Treasury.**ACTION:** Notice of proposed rulemaking; notice of hearing.

SUMMARY: This document provides a notice of public hearing on proposed regulations eliminating withholding on payments of gross proceeds, deferring withholding on foreign pass thru payments, eliminating withholding on certain insurance premiums, and clarifying the definition of investment entity.

DATES: The public hearing is being held on Wednesday, April 10, 2019, at 10 a.m. The IRS must receive speakers' outlines of the topics to be discussed at the public hearing by Friday, March 29, 2019.

ADDRESSES: The public hearing is being held in the IRS Auditorium, Internal Revenue Service Building, 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 a valid photo identification to enter the building.

Send Submissions to CC:PA:LPD:PR (REG–132881–17), Room 5205, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday to CC:PA:LPD:PR (REG–132881–17), Couriers Desk, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224 or sent electronically via the Federal eRulemaking Portal at www.regulations.gov (IRS REG–132881–17).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, John Sweeney, Nancy Lee, or Subin Seth, (202) 317–6942; concerning submissions of comments, the hearing and/or to be placed on the building access list to attend the hearing, Regina Johnson, (202) 317–6901 (not toll free numbers) or fdms.database@irs.counsel.treas.gov.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is the

notice of proposed rulemaking (REG–132881–17) that was published in the **Federal Register** on Tuesday, December 18, 2018 (83 FR 64757).

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing that submitted written comments by February 19, 2019, must submit an outline of the topics to be addressed and the amount of time to be devoted to each topic by Friday, March 29, 2019.

A period of 10 minutes is allotted to each person for presenting oral comments. After the deadline for receiving outlines has passed, the IRS will prepare an agenda containing the schedule of speakers. Copies of the agenda will be made available, free of charge, at the hearing or by contacting the Publications and Regulations Branch at (202) 317–6901 (not a toll-free number).

Because of access restrictions, the IRS will not admit visitors beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this document.

Martin V. Franks,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).

[FR Doc. 2019–04164 Filed 3–7–19; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY**Internal Revenue Service****26 CFR Parts 1 and 301**

[REG–104352–18]

RIN 1545–BO53

Rules Regarding Certain Hybrid Arrangements; Hearing**AGENCY:** Internal Revenue Service (IRS), Treasury.**ACTION:** Proposed rule; notice of hearing.

SUMMARY: This document provides a notice of public hearing on proposed regulations to implement sections 245A(e) and 267A of the Internal Revenue Code (Code) regarding hybrid dividends and certain amounts paid or accrued in hybrid transactions or with hybrid entities, and to provide rules under sections 1503(d) and 7701 of the Code to prevent the same deduction from being claimed under the tax laws of both the United States and a foreign country.

DATES: The public hearing is being held on Wednesday, March 20, 2019, at 10 a.m. The IRS must receive speakers' outlines of the topics to be discussed at the public hearing by Friday, March 15, 2019.

ADDRESSES: The public hearing is being held in the IRS Auditorium, Internal Revenue Service Building, 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 a valid photo identification to enter the building.

Send Submissions to CC:PA:LPD:PR (REG–104352–18), Room 5205, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday to CC:PA:LPD:PR (REG–104352–18), Couriers Desk, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224 or sent electronically via the Federal eRulemaking Portal at www.regulations.gov (IRS REG–104352–18).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, contact Tracy Villecco at (202) 317–3800; concerning submissions of comments, the hearing and/or to be placed on the building access list to attend the hearing, Regina L. Johnson at (202) 317–6901 (not toll free numbers) or fdms.database@irs.counsel.treas.gov.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is the notice of proposed rulemaking (REG–104352–18) that was published in the **Federal Register** on Friday, December 28, 2018 (83 FR 67612).

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing that submitted written comments by February 26, 2019, must submit an outline of the topics to be addressed and the amount of time to be devoted to each topic by Friday, March 15, 2019.

A period of 10 minutes is allotted to each person for presenting oral comments. After the deadline for receiving outlines has passed, the IRS will prepare an agenda containing the schedule of speakers. Copies of the agenda will be made available, free of charge, at the hearing or by contacting the Publications and Regulations Branch at (202) 317–6901 (not a toll-free number).

Because of access restrictions, the IRS will not admit visitors beyond the immediate entrance area more than 30 minutes before the hearing starts. For

information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this document.

Martin V. Franks,

*Chief, Publications and Regulations Branch,
Legal Processing Division, Associate Chief
Counsel (Procedure and Administration).*

[FR Doc. 2019-04203 Filed 3-7-19; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2018-1084]

RIN 1625-AA00

Safety Zone; Cocos Lagoon, Merizo, GU

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish a temporary safety zone for navigable waters within Cocos Lagoon. This safety zone will encompass the designated swim course for the Cocos Crossing swim event in the waters of Cocos Lagoon, Merizo, Guam. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before April 8, 2019.

ADDRESSES: You may submit comments identified by docket number USCG-2018-1084 using the Federal eRulemaking Portal at <https://www.regulations.gov>. See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Chief Petty Officer Todd Wheeler, Sector Guam, U.S. Coast Guard, by telephone at (671) 355-4866, or email at WWMGuam@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background, Purpose, and Legal Basis

The Cocos Crossing swim event is a recurring annual event that occurs one day either at the end of May or the beginning of June. We have established safety zones for this swim event in past years.

The purpose of this rule is to ensure the safety of the participants and the navigable waters in the safety zone before, during, and after the scheduled swim event. The Coast Guard is proposing this rulemaking under authority in 33 U.S.C. 1231.

III. Discussion of Proposed Rule

The Captain of the Port (COTP) is proposing to establish a safety zone from 6 a.m. to 1 p.m. on a day to be determined to host the Cocos Crossing swimming event either during the last two weeks of May or the first two weeks of June. This safety zone is necessary to protect all persons and vessels participating in this marine event from potential safety hazards associated with vessel traffic in the area. Race participants, chase boats, and organizers of the event will be exempt from the safety zone. Entry of persons or vessels into this safety zone is prohibited unless authorized by the COTP. The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zone. Vessel traffic will be able to safely transit around this safety zone, which will impact a small designated area of

the Cocos Lagoon for approximately 7 hours. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the zone, and the rule allows vessels to seek permission to enter the zone.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and

the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a safety zone lasting approximately 7 hours that would prohibit entry within 100-yards of swim participants. Normally such actions are categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A preliminary Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that

may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

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

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

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

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

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard is proposing to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T14–1084 to read as follows:

§ 165.T14–1084 Safety Zone; Cocos Lagoon, Merizo, GU.

(a) *Location.* The following area, within the Guam Captain of the Port (COTP) Zone (See 33 CFR 3.70–15), all navigable waters within a 100-yard radius of race participants in Cocos Lagoon, Merizo, Guam. Race participants, chase boats and organizers of the event will be exempt from the safety zone.

(b) *Enforcement dates.* This rule will be enforced from 6 a.m. to 1 p.m. on a specified day during either the last two weeks of May or the first two weeks of June.

(c) *Enforcement.* All persons are required to comply with the general regulations governing safety zones found in 33 CFR 165.23. Entry into or remaining in this zone is prohibited unless authorized by the Coast Guard Captain of the Port, Guam. Persons desiring to transit the area of the safety zone must first request authorization from the Captain of the Port Guam or his designated representative. To seek permission to transit the area, the Captain of the Port Guam and his designated representatives can be contacted at telephone number (671) 355–4821 or on Marine Band Radio, VHF–FM channel 16 (156.8 MHz). Any Coast Guard commissioned, warrant, or petty officer, and any other COTP representative permitted by law, may enforce this safety zone.

(d) *Waiver.* The COTP may waive any of the requirements of this rule for any person, vessel, or class of vessel upon finding that application of the safety zone is unnecessary or impractical for the purpose of maritime security.

(e) *Penalties.* Vessels or persons violating this rule are subject to the penalties set forth in 33 U.S.C. 1232.

Dated: March 4, 2019.

Christopher M. Chase,

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

[FR Doc. 2019–04218 Filed 3–7–19; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[EPA–R05–OAR–2018–0625; FRL–9990–46–Region 5]

Air Plan Approval; Indiana; Volatile Organic Liquid Storage Tank Rules**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the Indiana Administrative Code (IAC) rule entitled “Volatile Organic Liquid Storage Vessels” as part of Indiana’s State Implementation Plan (SIP). This rule has been revised to: allow sources to use an alternative inspection method to demonstrate compliance, address an inconsistency in the language regarding the calculation of maximum true vapor pressure (MTVP), exempt sources complying with the National Emission Standards for Hazardous Air Pollutants (NESHAPS) requirements for storage tanks equipped with floating roofs, clarify language, update references, correct certain errors, and address standard language and style changes that have occurred over time since the rule was last revised.

DATES: Comments must be received on or before April 8, 2019.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2018–0625, at <http://www.regulations.gov>, or via email to Aburano.Douglas@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, 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. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia

submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT:

Kathleen D’Agostino, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–1767, Dagostino.Kathleen@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document, whenever “we,” “us,” or “our” is used, we mean EPA. This supplementary information section is arranged as follows:

- I. What revisions has Indiana made to rule 326 IAC 8–9 and are they approvable?
- II. What action is EPA proposing?
- III. Incorporation by Reference
- IV. Statutory and Executive Order Reviews

I. What revisions has Indiana made to rule 326 IAC 8–9 and are they approvable?

On May 3, 1995, the Indiana Department of Environmental Management (IDEM) adopted 326 IAC 8–9 to control emissions from volatile organic liquid (VOL) storage vessels and to satisfy Clean Air Act (CAA) requirements to adopt Volatile Organic Compound (VOC) Reasonably Available Control Technology (RACT) rules. EPA approved 326 IAC 8–9 into the Indiana SIP on January 17, 1997 (62 FR 2593).

On August 20, 2018, IDEM submitted an amended 326 IAC 8–9, requesting that EPA approve the rule amendments as a revision to the Indiana SIP. On September 28, 2018, IDEM supplemented the submittal with an email clarifying its interpretation of 326 IAC 8–9–6(i)(3). The following summarizes the substantive rule revisions and discusses whether these rule revisions are approvable as SIP revisions.

Where we note “this rule” or “the rule,” unless otherwise noted, we mean 326 IAC 8–9.

326 IAC 8–9**326 IAC 8–9–1 Applicability**

Paragraphs (c), (e), and (f) were added to clarify that this rule applies to all stationary vessels that store a VOL regardless of the capacity or maximum true vapor pressure of the VOL stored. Paragraph (c) was added to clarify that stationary vessels with a capacity greater than or equal to 39,000 gallons that store a VOL with a maximum true vapor pressure less than 0.5 pound per square inch absolute (psia) are subject to the appropriate recordkeeping and

reporting requirements of section 6 of this rule (326 IAC 8–9–6). Paragraph (e) was added to clarify that stationary vessels with a capacity greater than or equal to 39,000 gallons that store a VOL with a maximum true vapor pressure greater than or equal to 0.75 psia but less than 11.1 psia are subject to the corresponding standards in section 4 of this rule (326 IAC 8–9–4), the appropriate testing procedures of section 5 of this rule (326 IAC 8–9–5), and the appropriate recordkeeping and reporting requirements of section 6 of this rule. Paragraph (f) was added to clarify that stationary vessels with a capacity greater than or equal to 39,000 gallons that store a VOL with a maximum true vapor pressure greater than or equal to 11.1 psia are subject to the corresponding standards in section 4 of this rule, the appropriate testing procedures of section 5 of this rule, and the appropriate recordkeeping and reporting requirements of section 6 of this rule. These revisions are approvable because they simply clarify that this rule applies to all stationary vessels that store a VOL regardless of the capacity or maximum true vapor pressure of the VOL stored.

326 IAC 8–9–2 Exemptions

This section of the rule lists vessels that are exempt. After the rule was initially adopted by the state, EPA promulgated National Emission Standards for Storage Vessels (tanks)—Control Level 2, at 40 CFR subpart WW, 40 CFR 63.1060–63.1067. IDEM subsequently added an exemption for sources complying with the control requirements in 40 CFR 63.1063, which contains floating roof requirements for storage vessels subject to subpart WW. These requirements are as stringent as RACT; therefore, this revision is approvable.

326 IAC 8–9–3 Definitions

IDEM revised the definition of “maximum true vapor pressure” to eliminate a description of how the maximum true vapor pressure of a VOL is determined. Previously, sections 8–9–3 and 8–9–6 of the rule contained conflicting provisions with respect to the methods of calculating maximum true vapor pressure. Section 8–9–6 has been revised to contain the proper procedures for determining the maximum true vapor pressure. Therefore, it is acceptable to remove the procedure from section 8–9–3.

IDEM added the following definition: “‘Seal gap’ means the gap areas and maximum gap widths between the: (A) primary seal and the wall of the vessel;

and (B) secondary seal and the wall of the vessel.” The definition is acceptable.

326 IAC 8–9–4 Standards

This section has been revised to clarify that equivalent control systems must be approved by IDEM and EPA. Indiana also clarified that automatic bleeder vents and rim vents must be equipped with a gasket.

326 IAC 8–9–5 Testing and Procedures

This section sets forth an inspection process for each affected tank. Previously, the rule required tanks to be emptied, degassed, inspected and then refilled at specific time intervals. IDEM revised the rule to allow alternative inspection methods so that tanks can be inspected while still in use, rather than emptying for the purpose of inspection. If the tank has not been emptied and degassed within the required inspection period, sources are required to inspect the vessel while in service in accordance with EPA’s subpart WW requirements at 40 CFR 63.1063(d)(1)(i) through 40 CFR 63.1063(d)(1)(v). In addition, sources are required to perform an internal out-of-service inspection in accordance with EPA’s Standards of Performance for Volatile Organic Liquid Storage Vessels (including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984, codified at 40 CFR 60.113b(a)(4), each time the vessel is emptied and degassed. This revision is approvable because requiring sources to empty and degas storage tanks for the sole purpose of inspection results in greater VOC emissions than inspecting the tanks while in service.

326 IAC 8–9–6 Recordkeeping and Reporting Requirements

Paragraphs (i) and (j) of this section set forth specific methods for determining the maximum true vapor pressure of VOLs. IDEM revised these sections to include updated references to the appropriate test methods and to clarify that any equivalent method for determining maximum true vapor pressure must be approved by both IDEM and EPA.

In revising these paragraphs, Indiana inadvertently retained the phrase “For other liquids,” at the beginning of 326 IAC 8–9–6(i)(3), which refers to former section 326 IAC 8–9–6(i)(2) which IDEM has deleted from its rule. In a September 28, 2018 email, IDEM clarified that it will disregard this phrase when interpreting and/or implementing 326 IAC 8–9–6(i). In fact, given the state’s

deletion of 326 IAC 8–9–6(i)(2), this phrase no longer has any meaning.

II. What action is EPA proposing?

EPA is proposing to approve revisions to Indiana’s SIP pursuant to section 110 and part D of the CAA because Indiana’s August 20, 2018 submission of rule 326 IAC 8–9, as supplemented on September 28, 2018, is consistent with the requirements of the CAA.

III. Incorporation by Reference

In this rule, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference Indiana rule 326 IAC 8–9 Volatile Organic Liquid Storage Vessels, effective July 16, 2018. EPA has made, and will continue to make, these documents generally available through www.regulations.gov and at the EPA Region 5 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

IV. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described

in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: February 21, 2019.

Cheryl L Newton,

Acting Regional Administrator, Region 5.

[FR Doc. 2019–04161 Filed 3–7–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R05–OAR–2018–0224; FRL–9990–47–Region 5]

Designation of Areas for Air Quality Planning Purposes; Ohio; Redesignation of the Lake County Sulfur Dioxide Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: In accordance with the Clean Air Act (CAA), the Environmental Protection Agency (EPA) is proposing to redesignate the Lake County sulfur dioxide (SO₂) nonattainment area from nonattainment to attainment. EPA is also proposing to approve Ohio's maintenance plan, which Ohio submitted on April 9, 2018. EPA has approved Ohio's State Implementation Plan (SIP) for Lake County, and the air quality in the area is meeting the SO₂ standard.

DATES: Comments must be received on or before April 8, 2019.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R05-OAR-2018-0224 at <http://www.regulations.gov> or via email to Blakley.pamela@epa.gov. For comments submitted at [Regulations.gov](http://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](http://www.regulations.gov). For either manner of submission, 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. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Mary Portanova, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR18)), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-5954, portanova.mary@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA. This supplementary information section is arranged as follows:

- I. Background and Redesignation Requirements
- II. Determination of Attainment
- III. Ohio's SIP
- IV. Permanent and Enforceable Emission Reductions
- V. Requirements for the Area Under Section 110 and Part D
- VI. Maintenance Plan
- VII. What action is EPA taking?
- VIII. Statutory and Executive Order Reviews

I. Background and redesignation requirements

In 2010, EPA established a revised primary SO₂ national ambient air quality standard (NAAQS) of 75 parts per billion (ppb) (75 FR 35520, June 22, 2010). EPA designated the Lake County area as nonattainment for the 2010 SO₂ NAAQS on August 5, 2013 (78 FR 47191) based upon air quality monitoring data for calendar years 2009–2011. The Lake County nonattainment area is comprised of the entirety of Lake County, Ohio.

Ohio was required to prepare a nonattainment plan that would provide for attainment of the NAAQS by the SO₂ attainment date of October 4, 2018. The plan must also meet the additional requirements of sections 172(c) and 191–192 of the CAA. Ohio submitted its plan on April 3, 2015, and supplemented it on October 13, 2015, and on March 13, 2017. EPA approved the Lake County nonattainment plan on February 14, 2019 (84 FR 3986).

Under CAA section 107(d)(3)(E), there are five criteria which must be met before a nonattainment area may be redesignated to attainment.

1. EPA has determined that the relevant NAAQS has been attained in the area.

2. The applicable implementation plan has been fully approved by EPA under section 110(k).

3. EPA has determined that improvement in air quality is due to permanent and enforceable reductions in emissions resulting from the SIP, Federal regulations, and other permanent and enforceable reductions.

4. The State has met all applicable requirements for the area under section 110 and part D.

5. EPA has fully approved a maintenance plan, including a contingency plan, for the area under section 175A of the CAA.

II. Determination of Attainment

The first requirement for redesignation is to demonstrate that the standard has been attained in the area. As stated in EPA's April 2014 “Guidance for 1-Hour SO₂ Nonattainment Area SIP Submissions,” for SO₂, there are two components needed to support an attainment determination: a review of representative air quality monitoring data, and a further analysis, generally requiring air quality modeling, to demonstrate that the entire area is attaining the applicable standard, based on current actual emissions or the fully implemented control strategy. Ohio has addressed both components.

Under EPA regulations at 40 CFR 50.17, the SO₂ standard is met at an ambient air quality monitoring site when the three-year average of the annual 99th percentile of one-hour daily maximum concentrations is less than or equal to 75 ppb, as determined in accordance with appendix T of 40 CFR part 50 at all relevant monitoring sites in the subject area. EPA has reviewed the ambient air monitoring data for the Lake County nonattainment area. The Lake County nonattainment area has two SO₂ monitoring sites, located in Painesville and Eastlake in northern Lake County. This review addresses air quality data collected from 2015 through 2017, which includes the most recent three years of complete, quality-assured data. All data considered are certified and recorded in EPA's Air Quality System database. Ohio has committed to continue monitoring for SO₂ at these locations.

Table 1 shows the 99th percentile results and three-year average design value for the Lake County nonattainment area monitors for 2015–2017. The overall 2015–2017 design value for Lake County is 66 ppb, which is below the SO₂ standard. Therefore, Ohio has demonstrated that Lake County's SO₂ monitors show attainment. Preliminary data for 2018 indicate that the area is continuing to attain the SO₂ standard.

TABLE 1—MONITORING DATA FOR THE LAKE COUNTY NONATTAINMENT AREA FOR 2015–2017

Site ID	Location	Year and 99th percentile value (ppb)			Average 2015–2017 (ppb)
		2015	2016	2017	
39–085–0003	Eastlake, Lake County	36	10	5	17
39–085–0007	Painesville, Lake County	89	80	29	66

Regarding the requirement for Ohio to demonstrate that the entire area is attaining the SO₂ standard, Ohio referred to the dispersion modeling analysis which was submitted on April 3, 2015, as part of its nonattainment plan. This analysis demonstrated that revised SO₂ emission limits in Painesville and concurrent permanent SO₂ emission reductions in Eastlake would provide for attainment. Ohio has confirmed that the modeled facilities are currently in full compliance with their emission limits, so that current actual emissions are at or below the levels Ohio used in its modeling analysis. The modeling analysis was discussed in detail in the August 21, 2018 (83 FR 42235) notice of proposed rulemaking for the Lake County SO₂ nonattainment SIP. EPA approved the Lake County nonattainment plan on February 14, 2019 (84 FR 3986). EPA proposes to find that this modeling analysis addresses the CAA requirements for redesignation.

III. Ohio's SIP

On October 11, 2018 (83 FR 51361), EPA approved revisions to Ohio's SO₂ SIP, including emission limits which were demonstrated to provide for attainment in Lake County. On February 14, 2019 (84 FR 3986), EPA approved Ohio's nonattainment SIP for Lake County, including a finding that Ohio had satisfied requirements for providing for attainment of the SO₂ standard in Lake County. Ohio has adopted its SO₂ SIP regulations, including those which cover Lake County, at Ohio Administrative Code (OAC) 3745–18, and Ohio has shown that it maintains an active enforcement program to ensure ongoing compliance. Ohio's new source review/prevention of significant deterioration program will address emissions from new sources.

IV. Permanent and Enforceable Emission Reductions

For an area to be redesignated, the state must be able to reasonably attribute the improvement in air quality to emission reductions which are permanent and enforceable. The FirstEnergy Generation, LLC, Eastlake Plant (Eastlake plant), located in Eastlake, Ohio, permanently shut down

its coal-fired boilers as of April 2015. The boiler retirement provided a decrease of 48,300 tons per year (tpy) from 2011 actual emissions. Ohio has removed the authority to operate the retired units from the Eastlake plant's federally enforceable State operating permit. The Eastlake plant cannot begin to use its large boilers again without applying for a new operating permit. Therefore, EPA proposes to accept this boiler retirement as a permanent and enforceable emission reduction.

Ohio has implemented new emission limits at OAC 3745–18–49(F) for the Painesville Municipal Electric Plant (Painesville plant) in Painesville, Ohio. The new limits for the Painesville plant provide for at least a 2,080 tpy decrease from 2011 actual emissions and an approximate 90 percent decrease from the plant's previously allowable emissions. EPA approved these new limits into Ohio's SIP on October 11, 2018 (83 FR 51361), which renders the limits federally enforceable, and Ohio has confirmed that the Painesville plant is currently complying with the limits.

The design value for Lake County at the time of its nonattainment designation was 157 ppb, with the highest monitored values found at the Painesville monitor (39–085–0007). More recent monitoring data in Lake County indicates that ambient SO₂ levels improved after the Eastlake plant closed its large boilers in April 2015, and after the Painesville plant's emissions dropped in 2016 to approximately a tenth of their 2011 level, as the Painesville plant prepared for the January 2017 compliance date of its new emission limits. The current design value for Lake County (2015–2017) is 66 ppb, with the highest measured values found at the Painesville monitor. This design value demonstrates attainment of the SO₂ NAAQS. EPA proposes to find that the improvement in air quality in Lake County can be attributed to permanent and enforceable emission reductions at the Eastlake and Painesville plants.

V. Requirements for the Area Under Section 110 and Part D

Ohio has submitted information demonstrating that it meets the

requirements of the CAA for the Lake County nonattainment area. EPA approved Ohio's infrastructure SIP for SO₂ on August 14, 2015 (80 FR 48733). This infrastructure SIP approval confirms that Ohio's SIP meets the requirements of CAA section 110(a)(1) and 110(a)(2) to contain the basic program elements, such as an active enforcement program and permitting program.

Section 191 of the CAA requires Ohio to submit a part D SIP for the Lake County nonattainment area by April 4, 2015. Ohio submitted its part D SIP on April 3, 2015 and supplemented it on October 13, 2015 and on March 13, 2017. The SIP included a demonstration of attainment and revised emission limits for the Painesville plant. EPA approved the Lake County nonattainment plan on February 14, 2019 (84 FR 3986).

This rulemaking concluded that Ohio satisfied the various requirements under CAA section 110 and part D for the Lake County SO₂ nonattainment area. For example, EPA concluded that Ohio satisfied requirements for an attainment inventory of the SO₂ emissions from sources in the nonattainment area (required under section 173(c)(3)), reasonably available control measures (RACM) (required under section 173(c)(1)), and reasonable further progress (required under section 173(c)(2)).

Section 176(c) of the CAA requires States to establish criteria and procedures to ensure that federally supported or funded projects conform to the air quality planning goals in the applicable SIP. The requirement to determine conformity applies to transportation plans, programs, and projects that are developed, funded, or approved under title 23 of the United States Code (U.S.C.) and the Federal Transit Act (transportation conformity) as well as to all other federally supported or funded projects (general conformity). State transportation conformity SIP revisions must be consistent with Federal conformity regulations relating to consultation, enforcement, and enforceability that EPA promulgated pursuant to its authority under the CAA. On August 20,

2014, Ohio submitted documentation establishing transportation conformity procedures in its SIP. EPA approved these procedures on March 2, 2015 (80 FR 11133). EPA is proposing to find that Ohio has satisfied the applicable requirements for the redesignation of the Lake County nonattainment area under section 110 and part D of title I of the CAA.

VI. Maintenance Plan

CAA section 175A sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the nonattainment area is redesignated to attainment. Eight years after the redesignation, the State must submit a revised maintenance plan demonstrating that attainment will continue to be maintained for the ten years following the initial ten-year period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures as EPA deems necessary to assure prompt correction of any future one-hour violations. Specifically, the maintenance plan should address five requirements: The attainment emissions inventory, maintenance demonstration, monitoring, verification of continued attainment, and a contingency plan. Ohio's April 9, 2018 redesignation request contains its maintenance plan, which Ohio has committed to review eight years after redesignation.

Ohio submitted an attainment emission inventory which addresses the 2011 base year emissions of over 52,000 tpy and projections of future emissions, for point, area, and mobile sources. While the attainment date for Lake County was October 4, 2018, Ohio's April 9, 2018 redesignation request chose 2016 as the attainment year for its maintenance plan emission inventory, because in 2016, significant SO₂ emission reductions occurred at the Eastlake and Painesville plants, and 2016 was one of the years contributing to the 2015–2017 design value which demonstrated Lake County's achievement of attainment of the SO₂ NAAQS. The attainment year inventory included actual reductions due to the boiler retirements at the Eastlake plant and actual reductions at the Painesville plant (as it was approaching full required compliance with the plant's expected revised limits). Total SO₂ emissions in Lake County for the attainment year were 483 tpy. Ohio projected emissions for an interim

future year, 2023, and the maintenance year, 2030.

Ohio projected that total SO₂ emissions in Lake County in the applicable years would be 433 tpy. This large reduction in emissions since the base year is expected to be sufficient to maintain the SO₂ standard in Lake County.

Ohio's maintenance demonstration consists of the nonattainment SIP air quality analysis which demonstrated that the emission reductions now in effect in Lake County will provide for attainment of the NAAQS. The permanent and enforceable SO₂ emission reductions described above ensure that Lake County emissions will be equal to or less than the emission levels which were evaluated in the air quality analysis, and Ohio's enforcement program will ensure that the Lake County SO₂ emission limits are met continuously.

For continuing verification, Ohio has committed to track the emissions and compliance status of the major facilities in Lake County so that future emissions will not exceed the attainment inventory. All major sources in Ohio are required to submit annual emissions data, which the state uses to update its emission inventories as required by the CAA. Ohio has also committed to continue ambient SO₂ monitoring in Lake County to verify attainment of the NAAQS.

The requirement to submit contingency measures in accordance with section 172(c)(9) can be adequately addressed for SO₂ by the operation of a comprehensive enforcement program which can quickly identify and address sources that might be causing exceedances of the NAAQS level. Ohio's enforcement program is active and capable of prompt action to remedy compliance issues or NAAQS exceedances. In particular, Ohio's April 9, 2018 redesignation request submittal discusses its two-tiered plan to respond to increasing SO₂ concentrations or new exceedances of the SO₂ NAAQS in the maintenance area. Ohio commits to study SO₂ emission trends and identify areas of concern and potential additional measures, particularly where an annual average 99th percentile maximum daily one-hour SO₂ concentration of 79 ppb or greater occurs. In the case of a two-year average of 76 ppb or greater occurring in the maintenance area, Ohio will assess the situation and consider additional control measures which can be implemented quickly. Ohio has the authority to expeditiously adopt, implement and enforce any subsequent emissions control measures deemed

necessary to correct any future SO₂ violations. Ohio commits to adopt and implement such corrective actions as necessary to address trends of increasing emissions or ambient impacts. The public will have the opportunity to participate in the contingency measure implementation process. EPA proposes to find that Ohio has addressed the contingency measure requirement. Further, EPA proposes to find that Ohio's maintenance plan adequately addresses the five basic components necessary to maintain the SO₂ standard in the Lake County nonattainment area.

VII. What action is EPA taking?

In accordance with Ohio's April 9, 2018 request, EPA is proposing to redesignate the Lake County nonattainment area from nonattainment to attainment of the SO₂ NAAQS. Ohio has demonstrated that the area is attaining the SO₂ standard, and that the improvement in air quality is due to permanent and enforceable SO₂ emission reductions in the nonattainment area. EPA is also proposing to approve Ohio's maintenance plan, which is designed to ensure that the area will continue to maintain the SO₂ standard.

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

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

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

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

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

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

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

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

List of Subjects

40 CFR Part 252

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

40 CFR Part 81

Environmental protection, Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: February 21, 2019.

Cheryl L Newton,

Acting Regional Administrator, Region 5.
[FR Doc. 2019-04160 Filed 3-7-19; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 258

[EPA-HQ-RCRA-2015-0354; FRL-9990-49-OLEM]

Revisions to the Criteria for Municipal Solid Waste Landfills To Address Advances in Liquids Management; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Advance notice of proposed rulemaking; extension of comment period.

SUMMARY: The Environmental Protection Agency (EPA) issued an advance notice of proposed rulemaking (ANPRM) in the *Federal Register* on December 26, 2018, to solicit comment on potential revisions to the criteria for municipal solid waste landfills and associated issues related to advances in liquids management. This ANPRM, entitled “Revisions to the Criteria for Municipal Solid Waste Landfills to Address Advances in Liquids Management,” provided for a 90-day public comment period ending on March 26, 2019. The EPA received a number of requests from public interest groups for additional time to review the ANPRM and to develop and submit comments. This ANPRM extends the comment period for 45 days, from March 26, 2019, to May 10, 2019.

DATES: Comments must be received on or before May 10, 2019.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-RCRA-2015-0354; Title: Revisions to the Criteria for Municipal Solid Waste Landfills to Address Advances in Liquids Management at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. 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>.

FOR FURTHER INFORMATION CONTACT:

Craig Dufficy, Materials Recovery and Waste Management Division, Office of Resource Conservation and Recovery, Mail Code 5304P, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC 20460; telephone number: (703) 308-9037; email address: dufficy.craig@epa.gov.

SUPPLEMENTARY INFORMATION: The EPA is considering whether to propose revisions to the criteria for Municipal Solid Waste Landfills (MSWLFs) to support advances in effective liquids management. To this end, EPA is seeking information relating to: removing the prohibition on the addition of bulk liquids to MSWLFs; defining a particular class of MSWLF units (*i.e.*, bioreactor landfill units) to operate with increased moisture content; and establishing revised MSWLF criteria to address additional technical considerations associated with liquids management, including waste stability, subsurface reactions, and other important safety and operational issues. This ANPRM also discusses the results of related research conducted to date, describes EPA’s preliminary analysis of that research, and seeks additional scientific studies, data, and public input on issues that may inform a future proposed rule. The EPA is not reopening any existing regulations through this ANPRM.

The ANPRM was published on December 26, 2018, and the comment period was scheduled to end on March 26, 2019. See 83 FR 66210. Since publication of the ANPRM, several stakeholders have requested additional time to review the ANPRM and to develop and submit comments. Therefore, after considering these requests for additional time, the EPA has decided to extend the comment period until May 10, 2019.

List of Subjects in 40 CFR Part 258

Environmental protection, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution and control.

Dated: February 21, 2019.

Barnes Johnson,

Director, Office of Resource Conservation and Recovery.

[FR Doc. 2019-04252 Filed 3-7-19; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 1**

[WT Docket No. 08–7; Report No. 3111]

Petition for Reconsideration of a Declaratory Ruling on Regulatory Status of Wireless Messaging Service**AGENCY:** Federal Communications Commission.**ACTION:** Petition for Reconsideration.**SUMMARY:** A Petition for Reconsideration (Petition) has been filed regarding the Commission's declaratory ruling by John Bergmayer on behalf of Public Knowledge.**DATES:** Oppositions to the Petition must be filed on or before March 25, 2019. Replies to an opposition must be filed on or before April 2, 2019.**ADDRESSES:** Federal Communications Commission, 445 12th Street SW, Washington, DC 20554.**FOR FURTHER INFORMATION CONTACT:** Elizabeth McIntyre, Deputy Chief, Competition and Infrastructure Policy Division, Wireless Telecommunications Bureau, at (202) 418–0668, email elizabeth.mcintyre@fcc.gov.**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's document, Report No. 3111, released February 5, 2019. The full text of the Petition is available for viewing and copying at the FCC Reference Information Center, 445 12th Street SW, Room CY–A257, Washington, DC 20554. It also may be accessed online via the Commission's Electronic Comment Filing System at: <http://apps.fcc.gov/ecfs/>. The Commission will not send a Congressional Review Act (CRA) submission to Congress or the Government Accountability Office pursuant to the CRA, 5 U.S.C. 801(a)(1)(A) because no rules are being adopted by the Commission.*Subject:* Petition for Declaratory Ruling on Regulatory Status of Wireless Messaging Service, WT Docket No. 08–7, FCC 18–178, published at 84 FR 5008, February 20, 2019. This document is being published pursuant to 47 CFR 1.429(e).*Number of Petitions Filed:* 1.

Federal Communications Commission.

Cecilia Sigmund,*Federal Register Liaison Officer.*

[FR Doc. 2019–04256 Filed 3–7–19; 8:45 am]

BILLING CODE 6712–01–P**DEPARTMENT OF TRANSPORTATION****Federal Motor Carrier Safety Administration****49 CFR Part 391**

[Docket No. FMCSA–2018–0247]

RIN 2126–AC13**Qualification of Drivers; Employment Application****AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.**ACTION:** Advance notice of proposed rulemaking (ANPRM).**SUMMARY:** FMCSA is considering changes to the requirement to have prospective drivers complete an employment application. FMCSA requests public comment on the value of and need for this requirement. Comment also is sought on ways the requirement for an employment application could be changed to reduce the associated paperwork burdens for drivers and motor carriers, including but not limited to the complete elimination of the requirement.**DATES:** Comments on this ANPRM must be received on or before May 7, 2019.**ADDRESSES:** You may submit comments bearing the Federal Docket Management System Docket ID (FMCSA–2018–0247) using any of the following methods:*Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.*Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590.*Hand Delivery or Courier:* U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.*Fax:* (202) 493–2251.**FOR FURTHER INFORMATION CONTACT:** For information concerning this ANPRM, contact Ms. Pearlle Robinson, Driver and Carrier Operations Division, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590, (202) 366–4325, MCPSD@dot.gov. If you have questions on viewing or submitting material to the docket, contact Docket Services at (202) 366–9826.**SUPPLEMENTARY INFORMATION:****I. Public Participation and Request for Comments****A. Submitting Comments**

If you submit a comment, please include the docket number for this ANPRM (FMCSA–2018–0247), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these methods. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov> and put the docket number (FMCSA–2018–0247) in the “Keyword” box, and click “Search.” When the new screen appears, click on the “Comment Now!” button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

Confidential Business Information (CBI) is commercial or financial information that is customarily not made available to the general public by the submitter. Under the Freedom of Information Act (5 U.S.C. 552), CBI is eligible for protection from public disclosure. If you have CBI that is relevant or responsive to this ANPRM, it is important that you clearly designate the submitted comments as CBI. Accordingly, please mark each page of your submission as “confidential” or “CBI.” Submissions designated as CBI and meeting the definition noted above will not be placed in the public docket of this ANPRM. Submissions containing CBI should be sent to Brian Dahlin, Chief, Regulatory Evaluation Division, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590–0001. Any commentary FMCSA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

FMCSA will consider all comments and material received during the comment period.

B. Viewing Comments and Documents

To view comments, as well as any documents mentioned in this ANPRM as being available in the docket, go to <http://www.regulations.gov> and insert the docket number (FMCSA–2018–0247) in the “Keyword” box and click “Search.” Next, click the “Open Docket Folder” button and choose the document listed to review. If you do not have access to the internet, you may view the docket by visiting the Docket Management Facility in Room W12–140 on the ground floor of the U.S. Department of Transportation (DOT) West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

C. Privacy Act

DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL 14–FDMS), which can be reviewed at <https://www.transportation.gov/privacy/>.

D. Advance Notice of Proposed Rulemaking

Under section 5202 of the Fixing America’s Surface Transportation (FAST) Act (Pub. L. 114–94, 129 Stat. 1312, 1534, Dec. 4, 2015), FMCSA is required to publish an ANPRM or conduct a negotiated rulemaking if a proposed rule is likely to lead to the promulgation of a major rule¹ (49 U.S.C. 31136(g)(1)). If FMCSA’s estimate of the burden hours associated with the requirement to have prospective drivers complete an employment application is correct, the possible proposal to change or eliminate the requirement could lead to the promulgation of a major rule. Using FMCSA’s typical current wage rate for truck and bus drivers of \$38.24 per hour and for motor carrier administrative personnel of \$28.82 per hour, the burden hours associated with

¹ A “major rule” means any rule that the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB) finds has resulted in or is likely to result in (a) an annual effect on the economy of \$100 million or more; (b) a major increase in costs or prices for consumers, individual industries, Federal agencies, State agencies, local government agencies, or geographic regions; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets (5 U.S.C. 804(2)). The term “major rule” does not include any rule promulgated under the Telecommunications Act of 1996 and the amendments made by that Act.

the requirement would equate to approximately \$180 million. Accordingly, the Agency is publishing this ANPRM in accordance with the FAST Act.

II. Legal Basis

The possible proposal to amend FMCSA’s regulations to change or eliminate 49 CFR 391.21, which includes the requirement to have prospective drivers complete an employment application, is based on the authority of the Motor Carrier Act of 1935 (1935 Act) and the Motor Carrier Act of 1984 (1984 Act), both as amended.

Section 204(a) of the 1935 Act (Pub. L. 74–255, 49 Stat. 543, 546, Aug. 9, 1935), as codified at 49 U.S.C. 31502(b), authorizes the Secretary of Transportation (Secretary) to “prescribe requirements for—(1) qualifications and maximum hours of service of employees of, and safety of operation and equipment of, a motor carrier; and (2) qualifications and maximum hours of service of employees of, and standards of equipment of, a motor private carrier, when needed to promote safety of operation.” This ANPRM addresses the qualifications of prospective motor carrier drivers, consistent with the safe operation of commercial motor vehicles (CMV).

The 1984 Act provides concurrent authority to regulate drivers, motor carriers, and vehicle equipment. Section 211(b) of the 1984 Act (Pub. L. 98–554, 98 Stat. 2832, 2841, Oct. 30, 1984), codified at 49 U.S.C. 31133(a), grants the Secretary broad power, in carrying out motor carrier safety statutes and regulations, to “prescribe recordkeeping and reporting requirements” and to “perform other acts the Secretary considers appropriate” (49 U.S.C. 31133(a)(8), (10) respectively).

Section 206(a) of the 1984 Act (98 Stat. 2834), codified at 49 U.S.C. 31136(a), grants the Secretary broad authority to issue regulations “on commercial motor vehicle safety.” The regulations must ensure that “commercial motor vehicles are . . . operated safely” (49 U.S.C. 31136(a)(1)). The remaining statutory factors and requirements in section 31136(a), to the extent they are relevant, are also satisfied here. In accordance with section 31136(a)(2), the elimination of the requirement to have prospective drivers complete an employment application would not impose any “responsibilities . . . on operators of commercial motor vehicles [that would] impair their ability to operate the vehicles safely.” This rule would not directly address medical standards for

drivers (section 31136(a)(3)) or possible physical effects caused by driving CMVs (section 31136(a)(4)). FMCSA does not anticipate that drivers would be coerced (section 31136(a)(5)) because of this rulemaking.

Finally, the Administrator of FMCSA is delegated authority under 49 CFR 1.87 to carry out the functions vested in the Secretary by 49 U.S.C. chapters 311 and 315 as they relate to CMV operators, programs, and safety.

III. Background

On April 22, 1970, the Federal Highway Administration (FHWA), a predecessor agency to FMCSA, added § 391.21, *Application for employment*, that requires every prospective driver to submit information, such as the applicant’s driving record, prior employers, accident history, and driver’s license status, on an employment application furnished by the motor carrier. The prospective driver also must furnish information concerning the nature and extent of experience driving motor vehicles (35 FR 6461). That same rulemaking also added the requirement in § 391.11(b)(12) that an individual is qualified to drive a motor vehicle only if the individual has completed and furnished an employment application to the motor carrier (35 FR 6461).

Section 391.21 was amended in response to section 12003(c) of the Commercial Motor Vehicle Safety Act of 1986 (Pub. L. 99–570, 100 Stat. 3207–170, 3207–171, Oct. 27, 1986), codified at 49 U.S.C. 31303(c). Section 31303(c) provides that every individual who operates a CMV² and applies for employment as a CMV operator must notify the employer at the time of application of the individual’s previous employment as a CMV operator. The Secretary was directed to prescribe the period for which notice of previous employment must be given. The statute provides, however, that “the period may not be less than the 10-year period ending on the date of the application” (49 U.S.C. 31303(c)(2)).

Accordingly, a June 1, 1987, final rule added a new paragraph (b)(11) to § 391.21 (52 FR 20589). Paragraph (b)(11) requires that drivers applying to operate a CMV, as defined by part 383, must provide a list of the names and

² For purposes of 49 U.S.C. 31303, a CMV is defined generally as a vehicle used in commerce that is at or above 26,001 pounds gross vehicle weight or weight rating, used to transport 16 or more passengers (including the driver), or is used to transport placardable hazardous materials (49 U.S.C. 31301(4)). With limited exceptions, a driver of such a CMV is required to hold a commercial driver’s license (CDL). This definition of CMV is reflected in § 383.5.

addresses of the employers for which the applicant was an operator of a CMV during the 7-year period preceding the 3 years of employment history required by § 391.21(b)(10), together with the dates of employment and the reasons for leaving such employment. Therefore, drivers applying to operate a CMV that requires a CDL must provide their experience operating such CMVs during the prior 10 years. The final rule also added § 383.35, *Notification of previous employment*, to the CDL standards. That section requires a prospective driver to provide, and the employer to request, at the time of application for employment the same information requested in § 391.21(b)(11) regarding a driver's experience operating a CMV that requires a CDL during the prior 10 years.

In 1997, as part of a review of the Federal Motor Carrier Safety Regulations (FMCSRs), FHWA proposed to remove the requirement in § 391.11(b) to complete and furnish an employment application as a driver qualification standard (62 FR 3855, Jan. 27, 1997). FHWA noted that the driver qualification standards in § 391.11 “are designed to protect the safety of the motoring public by not permitting a person to drive a CMV who lacks the essential abilities to perform his/her duties safely” (62 FR 3857). FHWA stated, however, that completing and furnishing an employment application were not driver qualification standards, but rather actions that enable motor carriers to evaluate the competence of applicants for CMV driver positions. FHWA stated further that the failure of a CMV driver to complete and furnish an application to his or her employing motor carrier should not result in the CMV driver being unqualified to drive. The proposal to remove an employment application as a driver qualification standard in § 391.11(b) was not intended to affect the responsibility of CMV drivers to complete and furnish the motor carriers that employ them with employment applications containing certain information as required by § 391.21 (see 62 FR 3858).

In its comments to the 1997 proposal, the American Trucking Associations, Inc. (ATA) opposed removing the requirement in § 391.11(b) that a CMV driver furnish the employing motor carrier with an employment application. It stated that completion of an application for employment is fundamental to the process of selecting safe CMV drivers and was published as a trucking industry safety standard in 1939, 12 years before it was incorporated into the FMCSRs. ATA believed the deletion of the driver

qualification standard would prevent motor carriers from gathering information to determine applicants' qualifications in accordance with § 391.21 (63 FR 33260, June 18, 1998).

FHWA reasoned in the June 18, 1998, final rule that a “driver's application for employment is not a ‘qualification’ *per se*. The revised heading of § 391.11 as ‘General qualifications’ clarifie[d] the intent to include performance-oriented qualifications” (63 FR 33260). FHWA considered an application for employment simply a presentation of a recordkeeping document, and removed the requirement for an employment application as a qualification standard from § 391.11(b) as proposed. FHWA noted specifically that it was not revising or removing § 391.21 (63 FR 33260).

In 2004, FMCSA amended § 391.21 in response to section 114 of the Hazardous Materials Transportation Authorization Act of 1994 (Pub. L. 103–311, 108 Stat. 1673, 1677, Aug. 26, 1994). Section 114 directed the Secretary to amend § 391.23, *Investigations and inquiries*, to specify the minimum safety information to be investigated from previous employers as part of performing the required safety background investigations on driver applicants. Section 114 requires a motor carrier, at minimum, to investigate a driver's accident record and alcohol and controlled substances history from all employers the driver worked for within the previous 3 years.

The March 30, 2004, Safety Performance History of New Drivers final rule amended § 391.21(b)(10) (69 FR 16719). Paragraph (b)(10) required that a prospective driver must include on the employment application a list of the names and addresses of the applicant's employers during the 3 years preceding the date the application was submitted, the dates employed, and the reason for leaving each employer. Language was added to require information regarding whether the applicant was subject to the FMCSRs while employed by each previous employer, and whether the job was designated as a safety sensitive function in any DOT regulated mode subject to alcohol and controlled substances testing requirements.

In the same rulemaking, FMCSA also amended § 391.21(d), which provided that, before an application was submitted, the motor carrier must inform the applicant that the information he or she provides in accordance with paragraph (b)(10) may be used, and the applicant's previous employers will be contacted, for the purpose of investigating the applicant's

safety performance history information as required by § 391.23. Language was added to require the prospective employer to notify the driver in writing of his or her due process rights as specified in § 391.23(i) regarding information received as a result of the investigations.

IV. The Need for Regulatory Action

On October 2, 2017, DOT published a Notification of Regulatory Review and stated that it was reviewing its “existing regulations and other agency actions to evaluate their continued necessity, determine whether they are crafted effectively to solve current problems, and evaluate whether they potentially burden the development or use of domestically produced energy resources” (82 FR 45750). As part of these reviews, DOT sought public comment on existing rules that are good candidates for repeal, replacement, suspension, or modification. In response, ATA identified a number of motor carrier operational regulations it believed needed reform or elimination.³

With respect to § 391.21, ATA recommended that paragraph (b)(11) be eliminated. ATA's stated rationale was that, during the hiring process, CDL drivers are required to include 10 years of employment history on their applications. Motor carriers, however, are only required to verify license, violation, accident, and drug testing information from the applicant's previous employers going back 3 years because the information is often not retrievable beyond 3 years. ATA recommended that motor carriers that wish to verify employment status beyond the required 3 years should be allowed to do so, but “given the dearth of information available and the inefficiency of gathering it, this should not be required” (see page 12 of ATA's December 1, 2017, comment, which is available in the docket for this ANPRM).

The requirement that drivers provide their employment history operating a CMV requiring a CDL during the prior 10 years when applying to operate such a CMV is statutorily mandated; therefore, FMCSA may not eliminate that requirement. The statutory requirement to provide 10 years of employment history is implemented through § 383.35 and, as a result, § 391.21(b)(11) may not be necessary to comply with the statutory mandate. FMCSA requests public comment on the extent to which the information required in § 391.21(b)(11) may be necessary, obtainable, or burdensome. Additionally, FMCSA seeks comment

³ See Docket DOT-OST-2017-0069, Item 2758.

on available alternatives to an employment application that could provide a driver's employment history operating a CMV requiring a CDL in the past 10 years consistent with the prevailing statutory mandate.

Although ATA's specific recommendation requires Congressional action to effectuate, the suggestion led FMCSA to review § 391.21 and evaluate whether the requirement for drivers to complete an employment application continues to be necessary and effectively solves a current problem. As noted above, few substantive changes have been made to § 391.21 since it was adopted in 1970.

Section 391.21 provides that an individual may not drive a CMV unless he or she has completed and furnished the motor carrier that employs him or her with an application for employment that includes certain information prescribed by FMCSA. FMCSA does not require that a specific form or format be used for the application. Rather, the motor carrier is to provide the application form to the driver. FMCSA requires, however, that the application contain the following information:

1. The name and address of the employing motor carrier;
2. The applicant's name, address, date of birth, and social security number;
3. The addresses at which the applicant has resided during the 3 years preceding the date on which the application is submitted;
4. The date on which the application is submitted;
5. The issuing State, number, and expiration date of each unexpired CMV operator's license or permit that has been issued to the applicant;
6. The nature and extent of the applicant's experience in the operation of motor vehicles, including the type of equipment that he or she has operated;
7. A list of all motor vehicle accidents in which the applicant was involved during the 3 years preceding the date the application is submitted, specifying the date and nature of each accident and any fatalities or personal injuries it caused;
8. A list of all violations of motor vehicle laws or ordinances (other than violations involving only parking) of which the applicant was convicted or forfeited bond or collateral during the 3 years preceding the date the application is submitted;
9. A statement setting forth in detail the facts and circumstances of any denial, revocation, or suspension of any license, permit, or privilege to operate a motor vehicle that has been issued to the applicant, or a statement that no

such denial, revocation, or suspension has occurred;

10. A list of the names and addresses of the applicant's employers during the 3 years preceding the date the application is submitted, the dates he or she was employed by that employer, the reason for leaving the employ of that employer, whether the applicant was subject to the FMCSRs while employed by that previous employer, and whether the job was designated as a safety sensitive function in any DOT regulated mode subject to alcohol and controlled substances testing requirements as required by 49 CFR part 40;

11. For those drivers applying to operate a CMV as defined by part 383, a list of the names and addresses of the applicant's employers during the 7-year period preceding the 3 years contained in paragraph 10 for which the applicant was an operator of a CMV, together with the dates of employment and the reasons for leaving such employment; and

12. A certification and signature line. Before the application is submitted, the motor carrier must inform the applicant how the employment information covering the past 3 years will be used. Additionally, the employer must notify the driver in writing of certain due process rights regarding the information received as the result of the inquiries to the prior employers.

FMCSA recognizes that the use of paper documents in business is becoming obsolete and that many businesses and individuals can achieve greater efficiencies using electronic methods. In recent years, FMCSA has received a number of requests from motor carriers and other interested parties asking permission to use electronic methods to comply with various Agency regulations that require motor carriers and individuals to generate, sign, or store documents. On April 16, 2018, FMCSA issued a final rule amending its regulations to allow the use of electronic records and signatures to satisfy FMCSA's regulatory requirements (73 FR 16210).

The requirement that a driver complete an employment application and provide the information specified by FMCSA may limit flexibility for prospective drivers and motor carriers and be overly prescriptive. It is not typical for the Federal government to require employers in regulated industries to have their prospective employees complete employment applications and provide information specified by the government. Even within other DOT regulated industries, agencies, such as the Federal Aviation

Administration and Federal Railroad Administration, do not impose a requirement to have prospective employees complete an employment application. Additionally, the information required by § 391.21 might be redundant of certain regulatory requirements (*e.g.*, §§ 383.35, 383.37, 391.11, and 391.23), and thus may be unnecessary or could be obtained more efficiently from alternative sources. Accordingly, the best approach may be to leave it to the prospective drivers and motor carriers to determine the most efficient manner and process for them to fulfill their required notification and investigation duties.

The Agency already concluded in 1998 that the act of completing and providing an application for employment is merely the presentation of a recordkeeping document and does not determine whether a driver is qualified to operate a CMV. Moreover, this recordkeeping requirement imposes significant compliance burdens on the industry.

Because FMCSA requires that certain information be provided as part of the employment application, the requirement that a prospective driver complete and provide an employment application to a motor carrier constitutes an information collection subject to the Paperwork Reduction Act of 1995 (PRA). The PRA requires Federal agencies to minimize the burden on the public resulting from their information collections, and to maximize the practical utility of the information collected. OMB oversees agency information collection activities under the PRA. Before an agency undertakes a collection of information, OMB must review and approve the burden imposed on the public by such an information collection.

On January 6, 2017, OMB approved FMCSA's request to renew the information collection titled "Driver Qualification Files," OMB number 2126-0004, which expires January 31, 2020. FMCSA estimated 4.8 million hours as the annual recordkeeping burden on CMV operators and motor carriers to comply with most of § 391.21, except § 391.21(b)(11). The full methodology FMCSA used to estimate the burden hours is described in the Driver Qualification Files Supporting Statement posted on *Reginfo.gov* on July 15, 2016,⁴ which is also available in the docket for this ANPRM.

⁴ See https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=201607-2126-001 under "Supporting Statement A" (Accessed February 20, 2019).

The 2017–2020 Driver Qualification Files information collection annual burden estimate was based on:

1. A 63 percent turnover rate among interstate and intrastate CMV drivers;
2. 18 million employment applications per year submitted to motor carriers, which is the product of an estimated 3.6 million job openings per year and 5 applications received by motor carriers for each job opening;
3. 15 minutes for a driver to complete an application, which includes obtaining a certificate of past traffic violations; and
4. 1 minute for the motor carrier to handle the application.

The Agency also assumed that some of the regulatory requirements in § 391.21 would be employed by any hiring entity, including hiring motor carriers, even if the FMCSRs did not exist. For instance, employers must ask for the driver's name, address, date of birth, and social security number, as well as the issuing State, number, and expiration date of the driver's license to operate a CMV. The Agency determined that employers would ask the nature and extent of the driver's experience in the operation of CMVs even in the absence of § 391.21. The Agency considered such elements of the application process, whether required of applicants or hiring motor carriers, to be exempt from PRA estimates under the "usual and customary" practices exception (5 CFR 1320.3(b)(2)).

The Agency intends to use the methodology described in the 2016 Supporting Statement to estimate the burden hours drivers and motor carriers would no longer incur if § 391.21 is changed or eliminated; however, more current data would be used in the estimate. The Agency requests public comment on the efficacy of its assumptions and methodology, as posited in Section V.

On October 31, 2018, OMB received FMCSA's request to renew the information collection titled "Commercial Driver Licensing and Testing Standards," OMB number 2126–0011, which was renewed and now expires December 31, 2021. This information collection includes the burden to comply with the requirement in § 391.21(b)(11) that drivers, who are applying to operate a CMV that requires a CDL, report their experience operating such CMVs in the previous 10 years.

Although the Agency is seeking comment on whether to revise or eliminate § 391.21 and its requirement for an employment application with specific information, FMCSA emphasizes that it is not seeking comment on whether to eliminate the underlying notification and investigation requirements associated with the employment process that are required by parts 383 and 391. Because the underlying notification and investigation requirements are beyond the scope of this rulemaking, some of the burden for complying with them that was previously accounted for in the Driver Qualification Files information collection for § 391.21 might be accounted for in other information collections.

V. Questions

The Agency seeks comments and data from the public in response to this ANPRM. FMCSA requests that commenters address their comments specifically to the questions below, and that commenters number their comments to correspond to each question.

1. How would the elimination of 49 CFR 391.21, which includes the requirement to have prospective drivers complete an employment application, impact a motor carrier's ability to hire safe drivers?
2. If the requirement in 49 CFR 391.21 for an employment application is not eliminated in its entirety, what elements should be retained to determine the safety performance history of the driver?
3. In the ordinary course of business, would a motor carrier require a prospective driver to prepare an employment application? If so, what (if any) information currently required by § 391.21 would a motor carrier not require a prospective driver to include on the employment application?
4. Is there information required by § 391.21 that a motor carrier or safety official could reasonably find in the motor carrier's personnel or other files, on government databases, or from other sources that would make the employment application duplicative of that information? If so, what is the information and what are the sources?
5. Knowing there are notification and investigation requirements that would not be removed by changing or eliminating the requirement for an employment application, for example,

§§ 383.35, 391.23, and 391.53, how would an employer and driver demonstrate compliance with each requirement in the absence of an employment application for both CDL and non-CDL CMV drivers?

6. Is the requirement in § 391.21(b)(11) that drivers provide their employment history operating a CMV that requires a CDL during the prior 10 years when applying to operate such a CMV necessary, obtainable, or burdensome?

7. Are there less burdensome alternatives to an employment application that could provide the necessary 10 years of driver employment history operating a CMV that requires a CDL?

8. Are there alternative methodologies to the 2016 Supporting Statement's methodology referenced above that would provide a superior estimate of the number of job openings and employment applications submitted to motor carriers?

9. Is the assumption used in the 2016 Supporting Statement that a job opening will result in a motor carrier receiving five employment applications on average reasonable? If not, what would be a better estimate and why? Please provide data if possible.

10. The 2016 Supporting Statement describes the data sources and methodology on page 5 used to estimate the turnover rate for CMV operators.⁵ Do they result in a reasonable estimate of the 63 percent turnover rate?

11. Are there any specific impacts of the proposed changes on small motor carriers that the Agency should consider?

Issued under the authority of delegation in 49 CFR 1.87.

Raymond P. Martinez,
Administrator.

[FR Doc. 2019–04188 Filed 3–7–19; 8:45 am]

BILLING CODE 4910–EX–P

⁵ The 63 percent turnover rate is a weighted average of turnover rates by for-hire industry sectors (truckload—94 percent, over the road—94 percent, and less than truckload carriers—13 percent). The data were obtained from the Journal of Commerce, *US truck driver turnover rate rises, pressuring shipping costs*, February 2, 2015, http://www.joc.com/trucking-logistics/labor/us-truck-driver-turnover-rate-rises-pressuring-shipment-costs_20150202.html. The Agency estimated the proportion of drivers by industry sector at 20 percent for truckload, 40 percent for over the road, and 40 percent for less than truckload.

Notices

Federal Register

Vol. 84, No. 46

Friday, March 8, 2019

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 COMMERCE

National Telecommunications and Information Administration

First Responder Network Authority

First Responder Network Authority Combined Committee and Board Meeting

AGENCY: First Responder Network Authority (FirstNet), U.S. Department of Commerce.

ACTION: Notice of Public Meeting of the First Responder Network Authority Board.

SUMMARY: The Board of the First Responder Network Authority (Board) will convene an open public meeting of the Board and the Board Committees on March 20, 2019.

DATES: A joint meeting of the four FirstNet Board Committees and the FirstNet Board will be held on March 20, 2019, between 10:30 a.m. and 12:45 p.m. (CT). The meeting of the FirstNet Board and the Governance and Personnel, Technology, Public Safety Advocacy, and Finance Committees will be open to the public from 10:30 a.m. to 12:45 p.m. (CT).

ADDRESSES: The meeting on March 20, 2019 will be held at the Westin Jackson, 407 South Congress Street, Jackson, MS 39201. Members of the public may listen to the meeting by dialing toll free 1-888-942-9044 and entering participant code 7344096#.

FOR FURTHER INFORMATION CONTACT: Karen Miller-Kuwana, Board Secretary, FirstNet, 12201 Sunrise Valley Drive, M/S 243, Reston, VA 20192; telephone: (571) 665-6177; email: Karen.Miller-Kuwana@firstnet.gov. Please direct media inquiries to Ryan Oremland at (571) 665-6186.

SUPPLEMENTARY INFORMATION:

This notice informs the public that the FirstNet Board and the Board Committees will convene an open public meeting on March 20, 2019.

Background: The Middle Class Tax Relief and Job Creation Act of 2012 (Pub. L. 112-96, Title VI, 126 Stat. 256 (codified at 47 U.S.C. 1401 *et seq.*)) (Act) established FirstNet as an independent authority within the National Telecommunications and Information Administration that is headed by a Board. The Act directs FirstNet to ensure the building, deployment, and operation of a nationwide, interoperable public safety broadband network. The FirstNet Board is responsible for making strategic decisions regarding FirstNet's operations. The FirstNet Board held its first public meeting on September 25, 2012.

Matters to be Considered: FirstNet will post a detailed agenda for the Combined Board Committees and Board Meeting on its website, <http://www.firstnet.gov>, prior to the meetings. The agenda topics are subject to change. Please note that the subjects that will be discussed by the Committees and the Board may involve commercial or financial information that is privileged or confidential or other legal matters affecting FirstNet. As such, the Committee Chairs and Board Chair may call for a vote to close the meetings only for the time necessary to preserve the confidentiality of such information, pursuant to 47 U.S.C. 1424(e)(2).

Times and Dates of Meeting: A combined meeting of the FirstNet Board and FirstNet Board Committees will be held on March 20, 2019 between 10:30 a.m. and 12:45 p.m. (CT). The meeting of the FirstNet Board and the Governance and Personnel, Technology, Public Safety Advocacy, and Finance Committees will be open to the public from 10:30 a.m. to 12:45 p.m. (CT). The times listed above are subject to change. Please refer to FirstNet's website at www.firstnet.gov for the most up-to-date information.

Place: The meetings on March 20, 2019 will be held at the Westin Jackson, 407 South Congress Street, Jackson, MS 39201. Members of the public may listen to the meeting by dialing toll free 1-888-942-9044 and entering participant code 7344096#.

Other Information: These meetings are open to the public and press on a

first-come, first-served basis. Space is limited. To ensure an accurate headcount, all expected attendees are asked to provide notice of intent to attend by sending an email to BoardRSVP@firstnet.gov. If the number of RSVPs indicates that expected attendance has reached its capacity, FirstNet will respond to all subsequent notices indicating that capacity has been reached and that in-person viewing may no longer be available but that the meeting may still be viewed by webcast as detailed below. For access to the meetings, valid government issued photo identification may be requested for security reasons.

The Combined Committee and Board Meetings are accessible to people with disabilities. Individuals requiring accommodations, such as sign language interpretation or other ancillary aids, are asked to notify Ms. Miller-Kuwana by telephone at (571) 665-6177 or email at Karen.Miller-Kuwana@firstnet.gov at least five (5) business days before the applicable meeting.

The meeting will also be webcast. Please refer to FirstNet's website at www.firstnet.gov for webcast instructions and other information. Viewers experiencing any issues with the live webcast may email support@sparkstreetdigital.com or call 202-684-3361 x3 for support. A variety of automated troubleshooting tests are also available via the "Troubleshooting Tips" button on the webcast player. The meetings will also be available to interested parties by phone. To be connected to the meetings in listen-only mode by telephone, please dial toll free 1-888-942-9044 and enter participant code 7344096#. If you experience technical difficulty, please contact the Conferencing Center customer service at 1-866-900-1011.

Records: FirstNet maintains records of all Board proceedings. Minutes of the Board Meeting and the Committee meetings will be available at www.firstnet.gov.

Dated: March 4, 2019.

Karen Miller-Kuwana,
Board Secretary, First Responder Network Authority.

[FR Doc. 2019-04192 Filed 3-7-19; 8:45 am]

BILLING CODE 3510-TL-P

DEPARTMENT OF COMMERCE**Bureau of Industry and Security****Notice of Request for Public Comments on Section 232 National Security Investigation of Imports of Titanium Sponge**

AGENCY: Bureau of Industry and Security, Office of Technology Evaluation, U.S. Department of Commerce.

ACTION: Notice of request for public comments.

SUMMARY: On March 4, 2019, in response to a petition, the Secretary of Commerce (the “Secretary”) initiated an investigation to determine the effects on the national security from imports of titanium sponge. This investigation has been initiated under section 232 of the Trade Expansion Act of 1962, as amended.

Interested parties are invited to submit written comments, data, analyses, or other information pertinent to the investigation to the Department of Commerce’s (the “Department”) Bureau of Industry and Security by April 22, 2019. Rebuttal comments will be due by May 22, 2019. This notice identifies issues on which the Department is especially interested in obtaining the public’s views.

DATES: The due date for filing comments is April 22, 2019. The due date for rebuttal comments is May 22, 2019. Rebuttal comments may only address issues raised in comments filed on or before April 22, 2019.

ADDRESSES: *Submissions:* All written comments on the notice must be submitted in English and must be addressed to Section 232 Titanium Sponge Investigation and filed through the Federal eRulemaking Portal: <http://www.regulations.gov>. To submit comments via <http://www.regulations.gov>, enter docket number BIS–2018–0027 on the home page and click “search.” The site will provide a search results page listing all documents associated with this docket. Find a reference to this notice and click on the link entitled “Comment Now!” (For further information on using <http://www.regulations.gov>, please consult the resources provided on the website by clicking on “How to Use This Site.”)

FOR FURTHER INFORMATION CONTACT: Brad Botwin, Director, Industrial Studies, Bureau of Industry and Security, U.S. Department of Commerce (202) 482–3110, Titanium232@bis.doc.gov. For more information about the section 232 program, including the regulations and

the text of previous investigations, please see www.bis.doc.gov/232.

SUPPLEMENTARY INFORMATION:**Background**

On March 4, 2019, in response to a petition, the Secretary initiated an investigation under section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862), to determine the effects on the national security from imports of titanium sponge. If the Secretary finds that titanium sponge is being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security, the Secretary shall so advise the President in his report on the findings of the investigation.

Written Comments

This investigation is being undertaken in accordance with part 705 of the National Security Industrial Base Regulations (15 CFR parts 700 to 709) (“NSIBR”). Interested parties are invited to submit written comments, data, analyses, or information pertinent to this investigation to the Department’s Office of Technology Evaluation no later than April 22, 2019. Rebuttal comments submitted in response to issues raised in comments received on or before April 22, 2019 may be filed no later than May 22, 2019.

The Department is particularly interested in comments and information directed to the criteria listed in § 705.4 of the NSIBR as they affect national security, including the following:

(i) Quantity of or other circumstances related to the importation of titanium sponge;

(ii) Domestic production and productive capacity needed for titanium sponge to meet projected national defense requirements;

(iii) Existing and anticipated availability of human resources, products, raw materials, production equipment, and facilities to produce titanium sponge;

(iv) Growth requirements of the titanium sponge industry to meet national defense requirements and/or requirements for supplies and services necessary to assure such growth including investment, exploration, and development;

(v) The impact of foreign competition on the economic welfare of the titanium sponge industry;

(vi) The displacement of any domestic titanium sponge production causing substantial unemployment, decrease in the revenues of government, loss of investment or specialized skills and productive capacity, or other serious effects;

(vii) Relevant factors that are causing or will cause a weakening of our national economy; and

(viii) Any other relevant factors, including the use and importance of titanium sponge in critical infrastructure sectors identified in Presidential Policy Directive 21 (Feb. 12, 2013) (for a listing of those sectors see <https://www.dhs.gov/cisa/critical-infrastructure-sectors>).

Requirements for Written Comments

The <http://www.regulations.gov> website allows users to provide comments by filling in a “Type Comment” field, or by attaching a document using an “Upload File” field. The Department prefers that comments be provided in an attached document. The Department prefers submissions in Microsoft Word (.doc) or Adobe Acrobat (.pdf). If the submission is in an application format other than those two, please indicate the name of the application in the “Type Comment” field. Please do not attach separate cover letters to electronic submissions; rather, include any information that might appear in a cover letter in the comments themselves. Similarly, to the extent possible please include any exhibits, annexes, or other attachments in the same file as part of the submission itself rather than in separate files. Comments will be placed in the docket and open to public inspection, except information determined to be confidential as outlined in § 705.6 of the NSIBR. Comments may be viewed on <http://www.regulations.gov> by entering docket number BIS–2018–0027 in the search field on the home page.

Material submitted by members of the public that is properly marked business confidential information and accepted as such by the Department will be exempted from public disclosure as provided for by § 705.6 of the NSIBR. Anyone submitting business confidential information should clearly identify the business confidential portion at the time of submission, file a statement justifying nondisclosure and referring to the specific legal authority claimed, and provide a non-confidential submission which can be placed in the public file on <http://www.regulations.gov>. Communications from agencies of the United States Government will not be made available for public inspection. For comments submitted electronically containing business confidential information, the file name of the business confidential version should begin with the characters “BC”. Any page containing business confidential information must be clearly marked “BUSINESS CONFIDENTIAL”

on the top of that page. The non-confidential version must be clearly marked "PUBLIC". The file name of the non-confidential version should begin with the character "P". The "BC" and "P" should be followed by the name of the person or entity submitting the comments or rebuttal comments. All filers should name their files using the name of the person or entity submitting the comments. If a public hearing is held in support of this investigation, a separate **Federal Register** notice will be published providing the date and information about the hearing.

The Bureau of Industry and Security does not maintain a separate public inspection facility. Requesters should first view the Bureau's web page, which can be found at <https://efoia.bis.doc.gov/> (see "Electronic FOIA" heading). If requesters cannot access the website, they may call 202-482-0795 for assistance. The records related to this assessment are made accessible in accordance with the regulations published in part 4 of title 15 of the Code of Federal Regulations (15 CFR 4.1 *et seq.*).

Dated: March 4, 2019.

Wilbur Ross,

Secretary of Commerce.

[FR Doc. 2019-04209 Filed 3-7-19; 8:45 am]

BILLING CODE 3510-33-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Hydrographic Services Review Panel

AGENCY: National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice of call for nominations for NOAA's Hydrographic Services Review Panel Federal Advisory Committee.

SUMMARY: The National Oceanic and Atmospheric Administration is seeking nominations for members to serve on the Hydrographic Services Review Panel.

DATES: Nominations are sought to fill five vacancies that occur on January 1, 2020. Nominations should be submitted by no later than May 1, 2019. Nominations will be accepted and kept on file on an ongoing basis regardless of date submitted for use with current and future vacancies. HSRP maintains a pool of candidates and advertises once a year to fulfill the HSIA requirements on membership solicitation. Current

members who may be eligible for a second term must reapply.

ADDRESSES: Nominations will be accepted by email and should be sent to: Hydroservices.panel@noaa.gov and Lynne.Mersfelder@noaa.gov. You will receive a confirmation response.

FOR FURTHER INFORMATION CONTACT: Lynne Mersfelder-Lewis, NOAA HSRP program manager, email Lynne.Mersfelder@noaa.gov or phone: 240-523-0064.

SUPPLEMENTARY INFORMATION: In accordance with the Hydrographic Service Improvements Act Amendments of 2002, Public Law 107-372, the Administrator of the National Oceanic and Atmospheric Administration (NOAA) is required to solicit nominations for membership at least once a year for the Hydrographic Services Review Panel (HSRP). The HSRP, a Federal advisory committee, advises the Administrator on matters related to the responsibilities and authorities set forth in section 303 of the Hydrographic Services Improvement Act and such other appropriate matters as the Administrator refers to the Panel for review and advice. Those responsibilities and authorities include, but are not limited to: Acquiring and disseminating hydrographic data and providing hydrographic services, as those terms are defined in the Act; promulgating standards for hydrographic data and services; ensuring comprehensive geographic coverage of hydrographic services; and testing, developing, and operating vessels, equipment, and technologies necessary to ensure safe navigation and maintain operational expertise in hydrographic data acquisition and hydrographic services.

The Act states "the voting members of the Panel shall be individuals who, by reason of knowledge, experience, or training, are especially qualified in one or more of the disciplines and fields relating to hydrographic data and hydrographic services, marine transportation, port administration, vessel pilotage, coastal and fishery management, and other disciplines as determined appropriate by the Administrator." The NOAA Administrator seeks and encourages individuals with expertise in marine navigation and technology, port administration, marine shipping or other intermodal transportation industries, cartography and geographic information systems, geodesy, physical oceanography, coastal resource management, including coastal preparedness and emergency response, and other related fields. To apply for

membership, applicants are requested to submit five items including a cover letter that responds to the five questions below. The entire package should be a maximum length of eight pages or fewer. NOAA is an equal opportunity employer.

(1) A cover letter that responds to the five questions listed below and serves as a statement of interest to serve on the panel. Please see "Short Response Questions" below.

(2) Highlight the nominee's specific area(s) of expertise relevant to the purpose of the Panel from the list in the **Federal Register** Notice.

(3) A short biography of 300 to 400 words.

(4) A current resume.

(5) The nominee's full name, title, institutional affiliation, mailing address, email, phone, fax and contact information.

Short Response Questions

(1) List your area(s) of expertise, as listed above.

(2) List the geographic region(s) of the country with which you primarily associate your expertise.

(3) Describe your leadership or professional experiences which you believe will contribute to the effectiveness of this panel.

(4) Describe your familiarity and experience with NOAA NOS navigation data, products, and services.

(5) Generally describe the breadth and scope of your knowledge of stakeholders, users, or other groups who interact with NOAA and whose views and input you believe you can share with the panel.

Under 33 U.S.C. 883a, *et seq.*, NOAA's National Ocean Service (NOS) is responsible for providing nautical charts and related information for safe navigation. NOS collects and compiles hydrographic, tidal and current, geodetic, and a variety of other data in order to fulfill this responsibility. The HSRP provides advice on current and emerging oceanographic and marine science technologies relating to operations, research and development; and dissemination of data pertaining to:

- (a) Hydrographic surveying;
- (b) Shoreline surveying;
- (c) Nautical charting;
- (d) Water level measurements;
- (e) Current measurements;
- (f) Geodetic measurements;
- (g) Geospatial measurements;
- (h) Geomagnetic measurements; and
- (i) Other oceanographic/marine related sciences.

The Panel has fifteen voting members appointed by the NOAA Administrator in accordance with 33 U.S.C. 892c.

Members are selected on a standardized basis, in accordance with applicable Department of Commerce guidance. The Co-Directors of the Center for Coastal and Ocean Mapping/Joint Hydrographic Center and two other NOAA employees serve as nonvoting members of the Panel. The Director, NOAA Office of Coast Survey, serves as the Designated Federal Official (DFO).

Voting members are individuals who, by reason of knowledge, experience, or training, are especially qualified in one or more disciplines relating to hydrographic surveying, tides, currents, geodetic and geospatial measurements, marine transportation, port administration, vessel pilotage, coastal or fishery management, and other oceanographic or marine science areas as deemed appropriate by the Administrator. Full-time officers or employees of the United States may not be appointed as a voting member. Any voting member of the Panel who is an applicant for, or beneficiary of (as determined by the Administrator) any assistance under 33 U.S.C. 892c shall disclose to the Panel that relationship, and may not vote on any other matter pertaining to that assistance.

Voting members of the Panel serve a four year term, except that vacancy appointments are for the remainder of the unexpired term of the vacancy. Members serve at the discretion of the Administrator and are subject to government ethics standards. Any individual appointed to a partial or full term may be reappointed for one additional full term. A voting member may serve until his or her successor has taken office. The Panel selects one voting member to serve as the Chair and another to serve as the Vice Chair. The Vice Chair acts as Chair in the absence or incapacity of the Chair but will not automatically become the Chair if the Chair resigns. Meetings occur at least twice a year, and at the call of the Chair or upon the request of a majority of the voting members or of the Administrator. Voting members receive compensation at a rate established by the Administrator, not to exceed the maximum daily rate payable under section 5376 of title 5, United States Code, when engaged in performing duties for the Panel. Members are reimbursed for actual and reasonable expenses incurred in performing such duties.

Past HSRP public meeting summary reports, agendas, presentations, transcripts, webinars, and other information is available online at: <https://www.nauticalcharts.noaa.gov/hsrp/mcctings.htm>.

Individuals Selected for Panel Membership

Upon selection and agreement to serve on the HSRP Panel, you become a Special Government Employee (SGE) of the United States Government. 18 U.S.C. 202(a) an SGE (s) is an officer or employee of an agency who is retained, designated, appointed, or employed to perform temporary duties, with or without compensation, not to exceed 130 days during any period of 365 consecutive days, either on a fulltime or intermittent basis. After the selection process is complete, applicants selected to serve on the Panel must complete the following actions before they can be appointed as a Panel member:

- (a) Security Clearance (on-line Background Security Check process and fingerprinting conducted through NOAA Workforce Management); and
- (b) Confidential Financial Disclosure Report—As an SGE, you are required to file a Confidential Financial Disclosure Report to avoid involvement in a real or apparent conflict of interest. You may find the Confidential Financial Disclosure Report at the following website: http://www.usoge.gov/forms/form_450.aspx.

Dated: March 1, 2019.

Paul M. Scholz,

Chief Financial Officer/Chief Administrative Officer, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2019-04196 Filed 3-7-19; 8:45 am]

BILLING CODE 3510-JE-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XG859

Fisheries of the Gulf of Mexico; Southeast Data, Assessment, and Review (SEDAR); Public Meeting

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

ACTION: Notice of SEDAR 61 Assessment Webinar III for Gulf of Mexico red grouper.

SUMMARY: The SEDAR 61 stock assessment process for Gulf of Mexico red grouper will consist of an In-person Workshop, and a series of data and assessment webinars. See **SUPPLEMENTARY INFORMATION.**

DATES: The SEDAR 61 Assessment Webinar III will be held on March 26, 2019, from 2 p.m. to 4 p.m., Eastern Time.

ADDRESSES: The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Julie A. Neer at SEDAR (see **FOR FURTHER INFORMATION CONTACT**) to request an invitation providing webinar access information. Please request webinar invitations at least 24 hours in advance of each webinar.

SEDAR address: 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Julie A. Neer, SEDAR Coordinator; (843) 571-4366; email: Julie.neer@safmc.net.

SUPPLEMENTARY INFORMATION: The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a multi-step process including: (1) Data Workshop, (2) a series of assessment webinars, and (3) A Review Workshop. The product of the Data Workshop is a report that compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The assessment webinars produce a report that describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The product of the Review Workshop is an Assessment Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, HMS Management Division, and Southeast Fisheries Science Center. Participants include data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and NGO's; International experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion during the Assessment Webinar are as follows:

1. Using datasets and initial assessment analysis recommended from the in-person workshop, panelists will employ assessment models to evaluate stock status, estimate population

benchmarks and management criteria, and project future conditions.

2. Participants will recommend the most appropriate methods and configurations for determining stock status and estimating population parameters.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 5 business days prior to each workshop.

Note: The times and sequence specified in this agenda are subject to change.

Dated: March 5, 2019.

Tracey L. Thompson,

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

[FR Doc. 2019-04223 Filed 3-7-19; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XG861

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council (Council) will hold a public meeting of its Advisory Panels (AP) for management plans requiring commercial permits.

DATES: The meeting will be held on Monday, March 25, 2019, from 9 a.m. until 12 p.m.

ADDRESSES: The meeting will be held via webinar with a telephone-only connection option. Registration and connection details will be posted at: <http://www.mafmc.org>.

Council address: Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901; telephone: (302) 674-2331; www.mafmc.org.

FOR FURTHER INFORMATION CONTACT:

Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526-5255.

SUPPLEMENTARY INFORMATION: The Council's AP for fishery management plans requiring commercial permits (Mackerel, Squid, and Butterfish; Summer Flounder, Scup, and Black Sea Bass; Bluefish; Spiny Dogfish; Surfclam and Ocean Quahog; and Tilefish) will meet to provide input on the upcoming Commercial Electronic Vessel Trip Report (eVTR) Omnibus Framework and associated topics. The Council will consider feedback provided by the AP at its April 2019 meeting, which will be the first framework meeting for this action.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to M. Jan Saunders, (302) 526-5251, at least 5 days prior to the meeting date.

Dated: March 5, 2019.

Tracey L. Thompson,

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

[FR Doc. 2019-04225 Filed 3-7-19; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XG860

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Pacific Fishery Management Council (Pacific Council) will convene a pre-assessment workshop to review proposed data and modeling approaches for groundfish stock assessments scheduled for assessment this year. The pre-assessment workshop will be followed by a skates historical catch reconstruction workshop to prepare for assessments of big and longnose skates scheduled for later this year. Both

workshops are open to the public. The workshops will also be streamed online via webinar to facilitate remote participation.

DATES: The pre-assessment workshop will be held Monday, March 25, 2019, from 1 p.m. until 5:30 p.m. (Pacific Daylight Time) or when business for the day has been completed. The workshop will reconvene on Tuesday, March 26, beginning at 8:30 a.m. and ending at 5:30 p.m. or when business has been completed. The skate historical catch reconstruction workshop will reconvene on Wednesday, March 27, beginning at 8:30 a.m. and ending at 5:30 p.m. or when business has been completed.

ADDRESSES: The pre-assessment and skates workshop will be held in the large conference room at the Pacific Fishery Management Council office, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220; telephone: (503) 820-2280. Public listening stations will be available at the Pacific Council office, as well as the following locations:

National Marine Fisheries Service, Southwest Fisheries Science Center, Room 188, 110 McAllister Way, Santa Cruz, CA 95060; telephone: (831) 420-3947; and

Oregon Department of Fish and Wildlife, Main Conference Room, 2040 SE Marine Science Drive, Newport, OR 97365; telephone: (541) 867-4741.

The public listening station at the NMFS Southwest Fisheries Science Center in Santa Cruz will only be available for the March 25 and 26 pre-assessment workshop and will not be available for the March 27 skates workshop.

To attend the webinar: Use this link: <https://www.gotomeeting.com/webinar> and click "Join a Webinar" in the top right corner of the page. Enter the Webinar ID, which is 433-536-835, and your name and email address (required). After logging into the webinar, dial this TOLL number 1+ (213) 929-4232 (not a toll-free number), then enter the Attendee phone audio access code: 596-914-734, then enter your audio phone pin (shown after joining the webinar). *Note:* We have disabled Mic/Speakers on GoToMeeting as an option and require all participants to use a telephone or cell phone to participate. Technical Information and System Requirements: PC-based attendees are required to use Windows® 10, 8, 7, Vista, or XP; Mac®-based attendees are required to use Mac OS® X 10.5 or newer; Mobile attendees are required to use iPhone®, iPad®, Android™ phone or Android tablet. (See the <https://www.gotomeeting.com/webinar/ipad-iphone-android-webinar-apps>). You

may send an email to Mr. Kris Kleinschmidt at kris.kleinschmidt@noaa.gov or contact him at (503) 820-2280, extension 411 for technical assistance.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220.

FOR FURTHER INFORMATION CONTACT: Mr. John DeVore, Staff Officer, Pacific Council; telephone: (503) 820-2280.

SUPPLEMENTARY INFORMATION: The purpose of the pre-assessment workshop is to review proposed data inputs, modeling approaches, and any other pertinent information for new benchmark stock assessments for big skate, longnose skate, sablefish, gopher/black-and-yellow rockfish, and cowcod. The goal of the pre-assessment workshop is to promote dialogue about and a common understanding between assessment teams and data providers of the best data and analytical and modeling approaches for use in conducting the benchmark groundfish assessments scheduled for 2019. Participants at the pre-assessment workshop will also review proposed revisions to the Pacific Council's Accepted Practices for Groundfish Stock Assessments document to prepare for these 2019 stock assessments. The purpose of the skates catch reconstruction workshop is to reconstruct historical catches of west coast skate species to prepare for the big skate and longnose skate stock assessments later this year. No management actions will be decided by the workshop participants.

Although nonemergency issues not contained in the workshops' agendas may be discussed, those issues may not be the subject of formal action during this workshop. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent of the workshop participants to take final action to address the emergency.

Visitors who are foreign nationals (defined as a person who is not a citizen or national of the United States) will require additional security clearance to access the NMFS Southwest Fisheries Science Center. Foreign national visitors should contact Ms. Stacey Miller at (541) 867-0535 at least 2 weeks prior to the meeting date to initiate the security clearance process.

Special Accommodations

The workshops are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt at (503) 820-2280 at least 10 days prior to the meeting date.

Dated: March 5, 2019.

Tracey L. Thompson,

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

[FR Doc. 2019-04224 Filed 3-7-19; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XG842

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Applications for one new scientific research permit, two permit modifications, and one permit renewal.

SUMMARY: Notice is hereby given that NMFS has received four scientific research permit application requests relating to Pacific salmon, steelhead, and eulachon. The proposed research is intended to increase knowledge of species listed under the Endangered Species Act (ESA) and to help guide management and conservation efforts. The applications may be viewed online at: https://apps.nmfs.noaa.gov/preview/preview_open_for_comment.cfm.

DATES: Comments or requests for a public hearing on the applications must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific standard time on April 8, 2019.

ADDRESSES: Written comments on the applications should be sent to the Protected Resources Division, NMFS, 1201 NE Lloyd Blvd., Suite 1100, Portland, OR 97232-1274. Comments may also be sent via fax to 503-230-5441 or by email to nmfs.nwr.apps@noaa.gov (include the permit number in the subject line of the fax or email).

FOR FURTHER INFORMATION CONTACT: Rob Clapp, Portland, OR (ph.: 503-231-2314), Fax: 503-230-5441, email: Robert.Clapp@noaa.gov. Permit application instructions are available from the address above, or online at <https://apps.nmfs.noaa.gov>.

SUPPLEMENTARY INFORMATION:

Species Covered in This Notice

The following listed species are covered in this notice:

Chinook salmon (*Oncorhynchus tshawytscha*): Endangered upper Columbia River (UCR); threatened Snake River (SR) spring/summer-run; threatened SR fall-run.

Steelhead (*O. mykiss*): Threatened UCR; threatened SR; threatened middle Columbia River (MCR).

Sockeye salmon (*O. nerka*): Endangered SR.

Authority

Scientific research permits are issued in accordance with section 10(a)(1)(A) of the ESA (16 U.S.C. 1531 *et. seq*) and regulations governing listed fish and wildlife permits (50 CFR 222-226). NMFS issues permits based on findings that such permits: (1) Are applied for in good faith; (2) if granted and exercised, would not operate to the disadvantage of the listed species that are the subject of the permit; and (3) are consistent with the purposes and policy of section 2 of the ESA. The authority to take listed species is subject to conditions set forth in the permits.

Anyone requesting a hearing on an application listed in this notice should set out the specific reasons why a hearing on that application would be appropriate (see **ADDRESSES**). Such hearings are held at the discretion of the Assistant Administrator for Fisheries, NMFS.

Applications Received

Permit 1127-5R

The Shoshone-Bannock Tribes are seeking to renew a permit that allows them to annually take listed SR Chinook salmon and steelhead while conducting research designed to (1) monitor adult and juvenile fish in key upper Snake River subbasin watersheds, (2) assess the utility of hatchery Chinook salmon in increasing natural populations in the Salmon River, and (3) evaluate the genetic and ecological impacts hatchery Chinook salmon may have on natural populations. The fish would primarily benefit from the research in two ways. First, the research would broadly be used to help guide restoration and recovery efforts throughout the Snake River basin. Second, the research would be used to determine how hatchery supplementation can be used as a tool for salmon recovery. The researchers would use screw traps, weirs, electrofishing, and hook-and-line angling gear to capture the listed fish. Once captured, the fish would undergo various sampling, tagging, and handling regimes; they would then be allowed to

recover and released. Some tissue samples would be taken from adult fish carcasses, and the researchers would conduct some snorkeling surveys and redd counts. In all cases, trained crews would conduct the operations, no adult salmonids would be electrofished, and all activities would take place in the Salmon River subbasin. The researchers are not proposing to kill any of the fish they capture, but some may die as an unintended result of the research.

18696—3M

The Idaho Power company is seeking to modify a five-year permit that allows them to annually capture juvenile white sturgeon in Lower Granite Reservoir. The researchers currently use small-mesh gill nets and d-ring nets to capture the fish. They would expand upon these efforts by adding a benthic (near-bottom) trawl in Lower Granite Reservoir and doing additional gill netting upstream from that reservoir. The gill net fishing would take place at times (October and November) and in areas (the bottom of the reservoir and river) that have purposefully been chosen to have the least possible impact on listed fish. When the nets are pulled to the surface, listed species would immediately be released (including by cutting the net, if necessary) and allowed to return to the reservoir. The d-ring fishing would take place in June and July, but the same restrictions (immediately releasing listed fish, etc.) would still apply. The purpose of the research is to document sturgeon survival in early life stages in the mainstem Snake River. The research targets a species that is not listed, but the research would benefit listed salmonids by generating information about the habitat conditions near and in Lower Granite Reservoir and by helping managers develop conservation plans for the species that inhabit those areas. The researchers are not proposing to kill any of the fish they capture, but a small number of individuals may be killed as an inadvertent result of the activities.

Permit 21571—2M

The United States Geological Survey is seeking to modify a five-year permit that currently allows them to conduct research on migration survival among middle Columbia River steelhead in the Yakima River system in Washington State. The research looks at how well the listed fish are surviving passage through various reaches of the Yakima River. The researchers would modify the permit by adding 115 more juvenile MCR steelhead to the number they are allowed to capture. This is being done

in response to the catch levels they logged in 2018.

The research would benefit the listed fish by helping managers understand what survival risks the young salmonids face when migrating downriver in the Yakima system. The managers would then be able to use that information to take actions designed to increase fish survival. The USGS researchers would capture juvenile MCR steelhead and tag them with acoustic and passive integrated transponder (PIT) tags. They would then use PIT tag detectors and acoustic receivers to follow the fish as they move downstream. The researchers would also use boat electrofishing equipment to count predators in several reaches, but they would not use that equipment to capture any listed animals for handling, and adult steelhead would be avoided in all cases. The researchers do not intend to kill any listed animals, but a small number may die as an inadvertent result of the planned activities.

Permit 22381

The Yakama Nation is seeking a five-year permit that would allow them to evaluate benefits and limitations of connecting side channel systems using groundwater infiltration galleries in salmon habitat. The project is designed to determine how side-channel reconnection affects juvenile salmonid abundance and rearing conditions. It would also explore the potential impacts that thermally enhanced flows may have on juvenile salmonid growth and survival. Metrics of juvenile growth and survival collected from the side channels would be compared to similar data collected by co-managing agencies that are monitoring other recently completed non-groundwater based side channel restoration actions in the Methow Basin, Washington State. The research would benefit listed fish by providing information on their status and helping improve recovery efforts.

The researchers would conduct snorkel- and spawning-ground surveys and would use electrofishing equipment to capture juvenile UCR Chinook and steelhead. The captured fish would be anesthetized, measure, weighed, scanned, and implanted with PIT tags. The fish would then be allowed to recover in live boxes and released back to the sites of their capture. The researchers do not intend to kill any listed fish, but some may die as an inadvertent result of the planned activities.

This notice is provided pursuant to section 10(c) of the ESA. NMFS will evaluate the applications, associated documents, and comments submitted to

determine whether the applications meet the requirements of section 10(a) of the ESA and Federal regulations. The final permit decisions will not be made until after the end of the 30-day comment period. NMFS will publish notice of its final action in the **Federal Register**.

Dated: March 4, 2019.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2019-04181 Filed 3-7-19; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Discharge of Oil From the Plains All American Pipeline Line 901 Into the Pacific Ocean Near Santa Barbara County, California, May 19, 2015

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of intent to conduct restoration planning.

SUMMARY: On May 19, 2015, Line 901, a 24-inch diameter underground oil pipeline owned by Plains All-American Pipeline Company (“Plains”) ruptured, releasing what has been estimated to be at least 2,940 barrels of crude oil. Much of the heavy crude oil flowed into the Pacific Ocean near Refugio Beach State Park in Santa Barbara County, California. The oil spread southward and eastward impacting adjoining shorelines in Santa Barbara county and downcoast.

The discharge affected natural resources in the general area. All of the foregoing is referred to as the “Incident.”

Pursuant to section 1006 of the Oil Pollution Act (“OPA”), 33 U.S.C. 2701, *et seq.*, federal and state trustees for natural resources are authorized to (1) assess natural resource injuries resulting from a discharge of oil or the substantial threat of a discharge and response activities, and (2) develop and implement a plan for restoration of such injured resources. The federal trustees are designated pursuant to the National Contingency Plan, 40 CFR Section 300.600 and Executive Order 12777. State trustees for California are designated pursuant to the National Contingency Plan, 40 CFR Section 300.605 and the *Governor’s Designation of State Natural Resource Trustees under the Comprehensive*

Environmental Response, Compensation and Liability Act of 1980, the Oil Pollution Act of 1990, and California Health and Safety Code section 25352(c), dated October 5, 2007. The natural resources trustees (“Trustees”) under OPA for this Incident are the United States Department of Commerce, acting through the National Oceanic and Atmospheric Administration (“NOAA”); the United States Department of the Interior (“DOI”), acting through the U.S. Fish and Wildlife Service (“FWS”); the California Department of Fish and Wildlife (“CDFW”); and the California Department of Parks and Recreation (“CDPR”). The California State Lands Commission (“CSLC”) is participating as a Trustee for the Incident pursuant to its jurisdiction under California state law over all state sovereign lands, including un-granted tidelands and submerged lands. The Regents of the University of California (“UC”) is participating as a Trustee for the Incident pursuant to its jurisdiction under California state law over lands within the Natural Land and Water Reserves System.

Plains is the Responsible Party (“RP”) for this Incident. The Trustees have coordinated with representatives of the RP on Natural Resource Damage Assessment (“NRDA”) activities.

The Trustees began the Preassessment Phase of the NRDA in accordance with 15 CFR 990.40, to determine if they had jurisdiction to pursue restoration under OPA, and, if so, whether it was appropriate to do so. During the Preassessment Phase, the Trustees collected and analyzed the following: (1) Data reasonably expected to be necessary to make a determination of jurisdiction or a determination to conduct restoration planning, (2) ephemeral data (*i.e.*, environmental data collected in the immediate aftermath of the spill), and/or (3) information needed to design or implement anticipated emergency restoration and/or assessment activities as part of the Restoration Planning Phase.

The NRDA Regulations under OPA, 15 CFR part 990 (“NRDA regulations”), provide that the Trustees are to prepare a Notice of Intent to Conduct Restoration Planning (Notice) if they determine certain conditions have been met, and if they decide to quantify the injuries to natural resources and to develop a restoration plan.

This Notice is to announce, pursuant to 15 CFR 990.44, that the Trustees, having collected and analyzed data, intend to proceed with restoration planning actions to address injuries to natural resources resulting from the

Incident. The purpose of this restoration planning effort is to further evaluate injuries to natural resources and services and to use that information to determine the need for, type of, and scale of restoration actions.

Opportunity to comment: Pursuant to 15 CFR 990.14(d), the Trustees seek public involvement in restoration planning for this Incident through public review of, and comment on, documents contained in the Record. The Trustees also intend to seek public comment on a draft Damage Assessment and Restoration Plan.

Comments should be sent to the following email address:

refugiorestoration@fws.gov.

SUPPLEMENTARY INFORMATION:

Determination of Jurisdiction

The Trustees have made the following findings pursuant to 15 CFR 990.41:

1. The rupture of Line 901 on May 19, 2015, resulted in a discharge of oil into and upon navigable waters of the United States, including the Pacific Ocean, as well as adjoining shorelines. Such occurrence constitutes an “Incident” within the meaning of 15 CFR 930.30.

2. The Incident was not permitted pursuant to federal, state, or local law; was not from a public vessel; and was not from an onshore facility subject to the Trans-Alaska Pipeline Authority Act, 43 U.S.C. 1651 *et seq.*

3. Natural resources under the trusteeship of the Trustees have been injured as a result of the Incident. The crude oil discharged from Line 901 is harmful to certain aquatic organisms, birds, wildlife, and vegetation that were exposed to the oil. Accordingly, the discharged oil and the response activities to address the discharge have had an adverse effect on the natural resources of the Pacific Ocean and its adjoining shorelines and impaired the services which those resources provide. Documents in the Administrative Record contain more information regarding the specific studies, observations, etc., by which the Trustees reached this determination.

As a result of the foregoing determinations, the Trustees have jurisdiction to pursue restoration under the OPA.

Determination To Conduct Restoration Planning

The Trustees have determined, pursuant to 15 CFR 990.42(a), that:

1. Observations and data collected pursuant to 15 CFR 990.43 (including dead and live oiled birds and marine mammals; dead and live fish and invertebrates exposed to oil; information regarding beaches, seagrass beds, rocky

intertidal habitats, subtidal habitats and other habitats affected by oil or response activities) demonstrate that injuries to natural resources have resulted from the Incident. Immediately following the Incident, the Trustees, in cooperation with the RPs identified several categories of impacted and potentially impacted resources, including birds, marine mammals, fish, and shoreline and subtidal habitats, as well as effects to human use/recreation resulting from impacts on these natural resources. The Trustees then began conducting activities, in cooperation with the RPs, to evaluate injuries and potential injuries within these categories. More information on these resource categories is available in the Administrative Record, including information gathered during the preassessment.

2. Spill response actions did not address all injuries resulting from the Incident to the extent that restoration would not be necessary. Although response actions were initiated soon after the spill, the nature and location of the discharge prevented recovery of all of the oil and precluded prevention of injuries to some natural resources. In addition, certain response efforts, such as the removal of wrack from beaches, caused additional injuries to natural resources. It is anticipated that injured natural resources will eventually return to baseline levels (the condition they would have been in had it not been for the Incident), but interim losses have occurred or have likely occurred and will continue until a return to baseline is achieved. In addition, there were lost and diminished human uses of the resources resulting from the impacts to the natural resources and from spill response actions.

3. Feasible primary and compensatory restoration actions exist to address injuries and lost human uses resulting from the Incident. To conduct restoration planning, the Trustees have compiled a list of restoration projects that could potentially be implemented to compensate for interim losses resulting from the incident. The Trustees have also sought suggestions from the public on potential restoration projects to compensate for the services and functions provided by natural resources. In addition, assessment procedures such as Habitat Equivalency Analysis and Resource Equivalency Analysis are available to scale the appropriate amount of compensatory restoration required to offset ecological service losses resulting from this Incident. To quantify lost human uses resulting from the Incident, the Trustees, in cooperation with the RP, have gathered data regarding visitor use

of impacted sites and associated activities. To value those lost uses the Trustees are using a value to cost approach, employing a Travel Cost Model, along with Benefits Transfer, for certain human use losses. The Trustees will work cooperatively with local governmental agencies and non-governmental organizations to identify a suite of potential restoration projects according to the relative magnitude of the spill. It is the goal of the Trustees to select projects spanning the geographic area of the spill and to address the various types of activities that were impacted by the spill.

During restoration planning, the Trustees evaluate potential projects, determine the scale of restoration actions needed to make the environment and the public whole, and release a draft Damage Assessment and Restoration Plan for public review and comment.

Based upon information in the Administrative Record and the foregoing determinations, the Trustees intend to proceed with restoration planning for this Incident.

Administrative Record

The Trustees have opened an Administrative Record ("Record") in compliance with 15 CFR 990.45. The Record will include documents considered by the Trustees during the reassessment, assessment, and restoration planning phases of the NRDA performed in connection with the Incident. The Record will be augmented with additional information over the course of the NRDA process.

The Administrative Record may be viewed at the following website: <https://www.diver.orr.noaa.gov/web/guest/diver-admin-record?diverWorkspaceSiteId=6104>.

Dated: March 1, 2019.

Paul M. Scholz,

Chief Financial Officer/Chief Administrative Officer, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2019-04198 Filed 3-7-19; 8:45 am]

BILLING CODE 3510-JE-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XG829

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Herring Advisory Panel to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Wednesday, March 27, 2019 at 12 p.m.

ADDRESSES: The meeting will be held at the Holiday Inn, Mansfield, MA 02048; telephone: (508) 339-2200.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465-0492.

SUPPLEMENTARY INFORMATION:

Agenda

The primary purpose of this meeting is to make progress on the development of herring fishery specifications for fishing years 2020 and 2021. The panel will review and provide input on the Science and Statistical Committee (SSC) recommendation for overfishing limits (OFL) and acceptable biological catch (ABC) limits for fishing years 2020 and 2021. The panel will provide input on the purpose and need for this action and identify a range of alternatives to be included for consideration. The Advisory Panel will give an update and opportunity for input on actions under consideration by the Atlantic States Marine Fisheries Commission (ASMFC). They will also give an update about the status of the Industry Funded Monitoring (IFM) Amendment. The panel will give an opportunity to provide input on the Council's five-year research priorities related to the herring resource and fishery. Other business will be discussed as necessary.

Although non-emergency issues not contained on this agenda may come before this Council for discussion, those issues may not be the subject of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. This meeting

will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465-0492, at least 5 days prior to the meeting date.

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

Dated: March 5, 2019.

Tracey L. Thompson,

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

[FR Doc. 2019-04221 Filed 3-7-19; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

41st Meeting of the U.S. Coral Reef Task Force; Public Meeting

AGENCY: Coral Reef Conservation Program, Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

ACTION: Notice of Public Meeting, Notice of Public Comment.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) and the U.S. Department of Interior (DOI) will hold a public meeting of the 41st U.S. Coral Reef Task Force (USCRTF).

DATES: The public meeting will be held Thursday, April 4, from 8:30 a.m. to 5:00 p.m. with an opportunity to provide public comments. Written comments must be received on or before March 22, 2019.

For specific the date, time, and location of the public meeting, see **SUPPLEMENTARY INFORMATION.**

ADDRESSES: You may submit comments to the USCRTF by any of the following methods: *Public Meeting and Oral Comments:* A public meeting will be held in Washington, DC. For the specific location, see **SUPPLEMENTARY INFORMATION.**

Written Comments: Please direct written comments to Jennifer Koss, NOAA, USCRTF Steering Committee Point of Contact, NOAA Coral Reef Conservation Program, 1305 East-West Highway, N/OCM, Silver Spring, MD 20910 or via email to Jennifer.Koss@noaa.gov.

FOR FURTHER INFORMATION CONTACT: Jennifer Koss, NOAA USCRTF Steering Committee Point of Contact, NOAA Coral Reef Conservation Program, 1305

East-West Highway, N/OCM, Silver Spring, MD 20910 at (301) 533-0777 or Liza Johnson, USCRTF Executive Secretary, U.S. Department of Interior, MS-3530-MIB, 1849 C Street NW, Washington, DC 20240 at (202) 208-5004 or visit the USCRTF website at <http://www.coralreef.gov>.

SUPPLEMENTARY INFORMATION: The meeting provides a forum for coordinated planning and action among federal agencies, state and territorial governments, and nongovernmental partners. Registration is requested for all events associated with the meeting. This meeting has time allotted for public comment. All public comments must be submitted in written format. A written summary of the meeting will be posted on the USCRTF website within two months of occurrence. For information about the meeting, registering and submitting public comments, go to <http://www.coralreef.gov>.

Commenters may address the meeting, the role of the USCRTF, or general coral reef conservation issues. Before including your address, phone number, email address, or other personally identifiable information in your comments, you should be aware that your entire comment, including personally identifiable information, may be made publicly available at any time. While you can ask us in your comment to withhold your personally identifiable information from public review, we cannot guarantee that we will be able to do so.

Established by Presidential Executive Order 13089 in 1998, the USCRTF mission is to lead, coordinate and strengthen U.S. government actions to better preserve and protect coral reef ecosystems. Co-chaired by the Departments of Commerce and Interior, USCRTF members include leaders of 12 federal agencies, seven U.S. states and territories and three freely associated states.

You may participate and submit oral comments at the public meeting. The public meeting occurs annually in Washington, DC, and is scheduled as follows.

Date: Thursday, April 4, 2019.

Time: 8:30 a.m. to 5:00 p.m. EST.

Location: Department of Interior, Auditorium, 1849 C St. NW, Washington, DC 20240. Written comments must be received on or before March 22, 2019.

Dated: March 1, 2019.

Paul M. Scholz,

Chief Financial Officer/Chief Administrative Officer, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2019-04205 Filed 3-7-19; 8:45 am]

BILLING CODE P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Additions to and Deletions from the Procurement List.

SUMMARY: The Committee is proposing to add services to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and delete services previously furnished by such agencies.

DATES: *Comments must be received on or before:* April 7, 2019.

ADDRESSES: Committee for Purchase from People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 715, Arlington, Virginia, 22202-4149.

FOR FURTHER INFORMATION CONTACT: For further information or to submit comments contact: Michael R. Jurkowski, Telephone: (703) 603-2117, Fax: (703) 603-0655, or email CMTEFedReg@AbilityOne.gov.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51-2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

The following services are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

Services

Service Type: Grounds Maintenance
Mandatory for: Federal Aviation Administration, Charleston Air Traffic Control Tower, North Charleston, SC

Mandatory Source of Supply: Palmetto Goodwill Services, North Charleston, SC

Service Type: Janitorial Service
Mandatory for: Federal Aviation Administration, Peachtree-DeKalb System Support Center, Chamblee, GA

Mandatory Source of Supply: New Ventures Enterprises, Inc., LaGrange, GA

Contracting Activity: Federal Aviation Administration, FAA, Regional Acquisitions Services

Deletions

The following services are proposed for deletion from the Procurement List:

Services

Service Type: Janitorial/Mechanical Maintenance

Mandatory for: U.S. Federal Building 26 N. McDonald Street Mesa, AZ

Mandatory Source of Supply: Goodwill Community Services, Inc., Phoenix, AZ

Service Type: Janitorial/Grounds Maintenance

Mandatory for: U.S. Border Patrol: Support Building 501, 16 Heffernan Street, Calexico, CA

Mandatory Source of Supply: ARC-Imperial Valley, El Centro, CA

Service Type: Janitorial/Custodial
Mandatory for: U.S. Border Patrol: Customs Building and Truck Stop, 406 and 410 Virginia Street, San Diego, CA

Mandatory Source of Supply: Job Options, Inc., San Diego, CA

Service Type: Administrative Services
Mandatory for: GSA, Las Vegas: Las Vegas Field Office (sub Reno), 300 Booth Street, Reno, NV

Service Type: Administrative Services
Mandatory for: GSA, Federal Supply Service: 300 Ala Moana, Honolulu, HI

Mandatory Source of Supply: Goodwill Contract Services of Hawaii, Inc., Honolulu, HI

Contracting Activity: General Services Administration

Service Type: Custodial Services
Mandatory for: Internal Revenue Service Building: 106 S. 15th Street, Omaha, NE

Mandatory Source of Supply: Goodwill Specialty Services, Inc., Omaha, NE

Contracting Activity: Public Buildings Service, GSA/Public Buildings Service

Service Type: Laundry Service
Mandatory for: U.S. Navy, Naval Hospital Medical Center Clinic, 2000 West Marine View Drive, Everett, WA

Mandatory Source of Supply: Northwest Center, Seattle, WA

Contracting Activity: Dept of the Navy, Naval Hospital

Service Type: Mailroom Operations

Mandatory for: U.S. Army, Corpus Christi Army Depot, Corpus Christi, TX

Mandatory Source of Supply: Goodwill Industries of South Texas, Inc., Corpus Christi, TX

Contracting Activity: Dept of the Army, W6QK CCAD CONTR OFF

Service Type: Janitorial/Custodial

Mandatory for: Naval & Marine Corps Reserve Center, Broken Arrow, OK

Contracting Activity: Dept of the Navy, U.S. Fleet Forces Command

Patricia Briscoe,

Deputy Director, Business Operations (Pricing and Information Management).

[FR Doc. 2019-04200 Filed 3-7-19; 8:45 am]

BILLING CODE 6353-01-P

DEPARTMENT OF DEFENSE

Department of the Army

Army Education Advisory Committee Meeting Notice

AGENCY: Department of the Army, DoD.

ACTION: Notice of open committee meeting.

SUMMARY: The Department of the Army is publishing this notice to announce the following Federal advisory committee meeting of the Army Education Advisory Committee. This meeting is open to the public.

DATES: The Army Education Advisory Committee will meet from 9:00 a.m. to 5:00 p.m. on April 2, 2019.

ADDRESSES: Army Education Advisory Committee, 950 Jefferson Avenue, Building 950, U.S. Training and Doctrine Command (TRADOC) Headquarters, Conference Room 2047, Ft. Eustis, VA 23604.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne Joyner, the Designated Federal Officer for the committee, in writing at ATTN: ATTG-ZC, TRADOC, 950 Jefferson Ave, Fort Eustis, VA 23604, by email at albert.w.joyner.civ@mail.mil, or by telephone at (757) 501-5810.

SUPPLEMENTARY INFORMATION: The committee meeting is being held under the provisions of the Federal Advisory Committee Act 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 102-3.150.

Purpose of the Meeting: The purpose of the meeting is to analyze data dealing with the execution of Basic Combat Training (BCT) and evaluate the effectiveness of current training strategies and manpower models to determine if potential resource changes or updates are needed, and finalize provisional findings and recommendations submitted by subcommittees.

Agenda: April 2: The committee is chartered to provide independent advice and recommendations to the Secretary of the Army on the educational, doctrinal, and research policies and activities of U.S. Army educational programs. The committee will review and evaluate the discoveries made by the study group related to BCT Workload, and discuss and deliberate provisional findings and recommendations submitted by its subcommittees.

Public Accessibility to the Meeting: Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102-3.140 through 102-3.165, and subject to the availability of space, this meeting is open to the public. Seating is on a first to arrive basis. Attendees are requested to submit their name, affiliation, and daytime phone number seven business days prior to the meeting to Mr. Joyner, via electronic mail, the preferred mode of submission, at the address listed in the **FOR FURTHER INFORMATION CONTACT** section.

Because the meeting of the committee will be held in a Federal Government facility on a military base, security screening is required. A photo ID is required to enter base. Please note that security and gate guards have the right to inspect vehicles and persons seeking to enter and exit the installation. TRADOC Headquarters is fully handicap accessible. Wheelchair access is available in front at the main entrance of the building. For additional information about public access procedures, contact Mr. Joyner, the committee's Designated Federal Officer, at the email address or telephone number listed in the **FOR FURTHER INFORMATION CONTACT** section.

Written Comments or Statements: Pursuant to 41 CFR 102-3.105(j) and 102-3.140 and section 10(a)(3) of the Federal Advisory Committee Act, the public or interested organizations may submit written comments or statements to the committee in response to the stated agenda of the open meeting or in regard to the committee's mission in general. Written comments or statements should be submitted to Mr. Joyner, the committee Designated

Federal Officer, via electronic mail, the preferred mode of submission, at the address listed in the **FOR FURTHER INFORMATION CONTACT** section. Each page of the comment or statement must include the author's name, title or affiliation, address, and daytime phone number. The Designated Federal Official will review all submitted written comments or statements and provide them to members of the committee for their consideration. Written comments or statements being submitted in response to the agenda set forth in this notice must be received by the Designated Federal Official at least seven business days prior to the meeting to be considered by the committee. Written comments or statements received after this date may not be provided to the committee until its next meeting.

Pursuant to 41 CFR 102-3.140d, the Committee is not obligated to allow a member of the public to speak or otherwise address the Committee during the meeting. Members of the public will be permitted to make verbal comments during the Committee meeting only at the time and in the manner described below. 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 seven business days in advance to the committee's Designated Federal Official, via electronic mail, the preferred mode of submission, at the address listed in the **FOR FURTHER INFORMATION CONTACT** section. The Designated Federal Official will log each request, in the order received, and in consultation with the committee Chair, determine whether the subject matter of each comment is relevant to the committee's mission and/or the topics to be addressed in this public meeting. A 15-minute 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 above, will be allotted no more than three minutes during the period, and will be invited to speak in the order in which their requests were received by Designated Federal Official.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2019-04240 Filed 3-7-19; 8:45 am]

BILLING CODE 5001-03-P

DEPARTMENT OF DEFENSE**Office of the Secretary**

[Docket ID DOD–2019–OS–0019]

Privacy Act of 1974; System of Records**AGENCY:** Office of the Secretary of Defense, DoD.**ACTION:** Notice of a modified system of records.

SUMMARY: The Office of the Secretary of Defense (OSD) proposes to modify a system of records titled Joint Civilian Orientation Conference (JCOC) Files, DPA DCR.A 01. The JCOC Program Coordinator uses this system of records to initiate an annual call for nominations and an electronic nomination form to email all individuals authorized to nominate candidates for participation in JCOC. Authorized individuals that choose to nominate candidates for participation in JCOC complete the electronic nomination form and return it via email to the JCOC Program Coordinator. Subsequent to a selection panel process, the JCOC Program Coordinator distributes an electronic registration form and an electronic medical form via email to all candidates nominated for and selected to participate in JCOC. Candidates that accept the invitation to participate in JCOC complete the electronic registration form and their physician signs the electronic medical form. Upon completion, the candidate returns both the registration form and medical form to the JCOC Program Coordinator via email.

DATES: Comments will be accepted on or before April 8, 2019. This proposed action will be effective on the date following the end of the comment period unless comments are received which result in a contrary determination.

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

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

* *Mail:* Department of Defense, Office of the Chief Management Officer, Directorate of Oversight and Compliance, Regulatory and Advisory Committee Division, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from

members of the public is to make these submissions available for public viewing on the internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Mrs. Luz D. Ortiz, Chief, Records, Privacy and Declassification Division (RPDD), 1155 Defense Pentagon, Washington, DC 20301–1155, or by phone at (571) 372–0478.

SUPPLEMENTARY INFORMATION: The JCOC is a weeklong engagement program providing business and community leaders the opportunity to gain firsthand knowledge and experience with the Department of Defense (DoD) and each of the military services. The JCOC Program mission is to increase public understanding of national defense by enabling American business and community leaders to directly observe and engage with the U.S. military in areas such as global security threats, budget implications, social issues facing troops, and the needs of transitioning Service members. The program's objective is to educate and inform private sector leaders and enhance their understanding of the military and its personnel. The JCOC also provides the American public opportunities to obtain a better understanding of national defense policies and programs.

The JCOC is the oldest and most prestigious public liaison program in the DoD and is the only outreach program sponsored by the Secretary of Defense. The authority vested in the Secretary of Defense per section 113 of 10 United States Code (U.S.C.) and DoD Directive 5122.5 establishes the position of Assistant Secretary of Defense for Public Affairs (ASD(PA)). The ASD(PA)'s responsibilities, functions, and authorities include the conduct of public affairs, community relations activities and programs as authorized by DoD Directive 5410.18, Public Affairs Community Relations Policy. This policy includes administration and execution of the JCOC Program.

This modification reflects changes to the system number, system location, system manager(s), authority, purpose, categories of individuals, categories of records, record source categories, routine uses, storage, retrieval, retention and disposal, safeguards, record access procedures, contesting records, and notification procedures and the addition of security classification and history sections.

The OSD notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have

been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT** or from the Defense Privacy, Civil Liberties, and Transparency Division website at <http://defense.gov/privacy>.

The proposed systems reports, as required by 5 U.S.C. 552a(r) of the Privacy Act, as amended, were submitted on December 17, 2018, to the House Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to Section 6 to OMB Circular No. A–108, “Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act,” revised December 23, 2016 (December 23, 2016, 81 FR 94424).

Dated: March 4, 2019.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

SYSTEM NAME AND NUMBER:

Joint Civilian Orientation Conference (JCOC) Files, DPA 03.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Office of the Assistant to the Secretary of Defense (Public Affairs), Community and Public Outreach, Room 2D982, 1400 Defense Pentagon, Washington, DC 20301–1400.

SYSTEM MANAGER(S):

JCOC Program Manager, Office of the Assistant to the Secretary of Defense (Public Affairs), Community and Public Outreach, 1400 Defense Pentagon, Washington, DC 20301–1400. Email: osd.pentagon.pa.mbx.cpo-review@mail.mil; Phone: (703) 695–2036.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 113, Secretary of Defense; DoD Directive 5122.5, Assistant Secretary of Defense for Public Affairs (ASD(PA)); and DoD Directive 5410.18, Public Affairs Community Relations Policy.

PURPOSE OF THE SYSTEM:

To administer the JCOC Program, verify the eligibility of nominators and candidates, and to select those nominated individuals for participation in JCOC.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military personnel, Coast Guard members, Department of Defense civilians, and JCOC alumni (hereafter JCOC Nominator) who nominate

candidates for participation in JCOC; and civilians nominated for and selected to participate in JCOC.

CATEGORIES OF RECORDS IN THE SYSTEM:

JCOC Nominator (DoD/Coast Guard/JCOC alumni): full name, rank/grade, work or personal email address and telephone number, point of contact for questions/notifications, nominating authority, and JCOC class year.

JCOC Candidate: full name, title, organization name and address, work and personal email address, home address, home/cell phone number, biography, photograph, interviews, medical authorization form, and informed consent form.

Alternate point of contact for the JCOC Candidate: full name, address, email address, and phone number.

RECORD SOURCE CATEGORIES:

Nominators and candidates for the JCOC Program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, the records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3):

a. To the appropriate Federal, State, local, territorial, tribal, foreign, or international law enforcement authority or other appropriate entity where a record, either alone or in conjunction with other information, indicates a violation or potential violation of law, whether criminal, civil, or regulatory in nature.

b. To any component of the Department of Justice for the purpose of representing the DoD, or its components, officers, employees, or members in pending or potential litigation to which the record is pertinent.

c. In an appropriate proceeding before a court, grand jury, or administrative or adjudicative body or official, when the DoD or other Agency representing the DoD determines the records are relevant and necessary to the proceeding; or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.

d. To the National Archives and Records Administration for the purpose of records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

e. To a Member of Congress or staff acting upon the Member's behalf when

the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.

f. To appropriate agencies, entities, and persons when (1) the DoD suspects or has confirmed that there has been a breach of the system of records; (2) the DoD has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the DoD (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the DoD's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

g. To another Federal agency or Federal entity, when the DoD determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

These records are stored on paper and electronic storage media.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are retrieved by full name.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

These records are retained and disposed of consistent with the National Archives and Records Administration approved records disposition schedules. Nomination and participation records are destroyed 10 years after conclusion of associated JCOC Program.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Paper records are maintained in a locked file cabinet in the JCOC Program office and are accessible only by authorized program personnel. Electronic records are stored in folders on a computer network storage system secured according to the Risk Management Framework requirements, with access restricted to authorized JCOC Program personnel and network maintenance personnel via Common Access Card authentication and system user credentials.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address inquiries to the Office of the Secretary of Defense/Joint Staff Freedom of Information Act Requester Service Center, 1155 Defense Pentagon, Washington, DC 20301-1155.

Signed, written requests for information must include full name, current address, year of participation, and the name and number of this system of records notice. In addition, the requester must provide either a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: "I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)."

If executed within the United States, its territories, possessions, or commonwealths: "I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)."

CONTESTING RECORD PROCEDURES:

The Office of the Secretary of Defense (OSD) rules for accessing records, for contesting contents and appealing initial agency determinations are published in OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the system manager.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether information about themselves is contained in this system should address inquiries to the Director, Joint Civilian Orientation Conference, Office of the Assistant to the Secretary of Defense (Public Affairs), Community and Public Outreach, 1400 Defense Pentagon, Washington, DC 20301-1400.

Signed, written requests for information must include the individual's full name, current address, and year of participation. In addition, the requester must provide either a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: "I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)."

If executed within the United States, its territories, possessions, or commonwealths: "I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)."

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

February 22, 1993, 58 FR 10227.

[FR Doc. 2019-04191 Filed 3-7-19; 8:45 am]

BILLING CODE 5001-06-P**DEPARTMENT OF DEFENSE****Office of the Secretary****[Docket ID: DOD-2018-OS-0104]****Submission for OMB Review;
Comment Request****AGENCY:** Office of the Secretary of Defense, DoD.**ACTION:** 30-Day information collection notice.**SUMMARY:** The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.**DATES:** Consideration will be given to all comments received by April 8, 2019.**ADDRESSES:** Comments and recommendations on the proposed information collection should be emailed to Ms. Jasmeet Seehra, DoD Desk Officer, at oira_submission@omb.eop.gov. Please identify the proposed information collection by DoD Desk Officer, Docket ID number, and title of the information collection.**FOR FURTHER INFORMATION CONTACT:** Angela James, 571-372-7574, or whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.**SUPPLEMENTARY INFORMATION:***Title; Associated Form; and OMB Number:* Vietnam War Commemoration Program Partner Events; DD Form 2953; DD Form 2954; DD Form 3027; DD Form 3028; DD Form 3029; OMB Control Number 0704-0500.*Type of Request:* Extension.*Number of Respondents:* 16,020.*Responses per Respondent:* 1.8739.*Annual Responses:* 30,020.*Average Burden per Response:* 15 minutes.*Annual Burden Hours:* 7,505.*Needs and Uses:* This information collection requirement is necessary to notify the United States of America Vietnam War Commemoration Program of Commemorative Partner's planned events. Information is submitted for inclusion on the program's events calendar and to request event support in the form of materials and/or speakers from the program. The information collection is necessary to obtain, vet, record, process and provide Certificates

of Honor to be presented on behalf of a grateful nation by partner organizations. Additionally, this collection is necessary for the partner organizations to communicate to the Commemoration program the results of their events and lessons learned.

Affected Public: Businesses or other for-profits; Not-for-profit institutions; Federal Government; State, local or tribal government, or, by exception, eligible individuals or households.*Frequency:* On occasion.*Respondent's Obligation:* Voluntary.*OMB Desk Officer:* Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, Docket ID 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.*DOD Clearance Officer:* Ms. Angela James.Requests for copies of the information collection proposal should be sent to Ms. James at whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.

Dated: March 4, 2019.

Aaron T. Siegel,*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2019-04173 Filed 3-7-19; 8:45 am]

BILLING CODE 5001-06-P**DEPARTMENT OF DEFENSE****Department of the Navy****Notice of Rescheduled Public Meetings and Extension of Public Comment Period for the Draft Supplemental Environmental Impact Statement/Overseas Environmental Impact Statement for Mariana Islands Training and Testing****AGENCY:** Department of the Navy, DoD.**ACTION:** Notice.**SUMMARY:** A notice of public meetings was published in the **Federal Register** by the U.S. Environmental Protection Agency on January 31, 2019 for the Department of the Navy's (DoN) Draft

Supplemental Environmental Impact Statement/Overseas Environmental Impact Statement (EIS/OEIS) for the Mariana Islands Training and Testing (MITT) Study Area. Due to the effects of Typhoon Wutip, Navy officials postponed public meetings supporting the Draft Supplemental EIS/OEIS planned for February 26-27, 2019.

DATES: This notice announces the dates and locations of the rescheduled public meetings in March 2019, and a 15-day extension of the public comment period from March 18, 2019, to April 2, 2019.**ADDRESSES:** Public meetings will be held in an open-house format with DoN representatives available to provide information and answer questions related to the Draft Supplemental EIS/OEIS. The public may arrive at any time during meetings, as there will not be a presentation or public oral comment session. Open house public meetings will be held on the following dates and at the following locations:

1. 1:00 to 3:30 p.m. March 14, 2019, at Tinian Public Library, San Jose Village, Tinian, MP 96952.

2. 1:30 to 4:30 p.m. March 15, 2019, at Mayor's Conference Hall, Songsong Village, Rota, MP 96951.

3. 5:00 to 8:00 p.m. March 18, 2019, at Kanoa Resort Saipan, Seaside Hall, Beach Road in Susupe, Saipan, MP 96950.

4. 5:00 to 8:00 p.m. March 19, 2019, at University of Guam, Jesus & Eugenia Leon Guerrero School of Business and Public Administration Building, Anthony Leon Guerrero Multi-Purpose Room 129 and Henry Sy Atrium, Mangilao, Guam 96923.

Attendees will be able to submit comments during the open house public meetings. Comments may also be mailed to Naval Facilities Engineering Command Pacific, Attention: MITT Supplemental EIS/OEIS Project Manager, 258 Makalapa Drive, Suite 100, Pearl Harbor, HI 96860-3134, or electronically via the project website at www.MITT-EIS.com. All comments submitted during the public comment period will become part of the public record and substantive comments will be addressed in the Final Supplemental EIS/OEIS. All comments must be postmarked or received online by April 2, 2019, Chamorro Standard Time, for consideration in the Final Supplemental EIS/OEIS.

Naval Facilities Engineering Command Pacific, Attention: MITT Supplemental EIS/OEIS Project Manager, 258 Makalapa Drive, Suite 100, Pearl Harbor, HI 96860-3134.

SUPPLEMENTARY INFORMATION: The Draft Supplemental EIS/OEIS is available

electronically for public viewing at www.MITT-EIS.com and at the following public libraries:

1. Robert F. Kennedy Memorial Library, University of Guam, UOG Station, Mangilao, GU 96923-1871.
2. Nieves M. Flores Memorial Library, 254 Martyr St., Hagåtña, GU 96910-5141.
3. Tinian Public Library, San Jose Village, Tinian, MP 96952-9997.
4. Antonio C. Atalig Memorial Library (Rota Public Library), Rota, MP 96951-9997.
5. Joeten-Kiyu Public Library, Beach Road and Insatto St., Saipan, MP 96950-9996.

Dated: March 1, 2019.

M.S. Werner,

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

[FR Doc. 2019-04019 Filed 3-7-19; 8:45 am]

BILLING CODE 3810-FF-P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Grant Exclusive Patent License; Nanocrine, Inc.

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to Nanocrine, Inc., of Frederick, Maryland an exclusive license in the field of use of products and services for use in cell biology research for cell signaling and phenotyping studies and the field of use of products and services for use in cell biology research for cell protein and chemical secretion, in the United States, to U.S. Patent 9,791,368: Nanoplasmonic Imaging Technique for the Spatio-temporal Mapping of Single Cell Secretions in Real Time, Navy Case No. 102,395.//U.S. Patent Application No. 15/784,433: Nanoplasmonic Imaging Technique for the Spatio-temporal Mapping of Single Cell Secretion in Real Time, Navy Case No. 102,395.//U.S. Patent No. 9,915,654: Light Microscopy Chips and Data Analysis Methodology for Quantitative Localized Surface Plasmon Resonance (LSPR) Biosensing and Imaging, Navy Case No. 101,529.//U.S. Patent Application No. 15/882,081: Light Microscopy Chips and Data Analysis Methodology for Quantitative Localized Surface Plasmon Resonance (LSPR) Biosensing and Imaging, Navy Case No. 101,529.//U.S. Patent Application No. 14/039,326: Calibrating Single Plasmonic Nanostructures for Quantitative Biosensing, Navy Case No.

102,043.//U.S. Patent Application No. 15/186,742: Determining Extracellular Protein Concentration with Nanoplasmonic Sensors, Navy Case No. 103,502.//U.S. Patent Application No. 16/196,097: Substrates with Indendently Tunable Topographies and Chemistries for Quantifying Surface-Induced Cell Behavior, Navy Case No. 107,399 and any continuations, divisionals, or re-issues thereof.

DATES: Anyone wishing to object to the grant of this license must file written objections along with supporting evidence, if any, not later than March 25, 2019.

ADDRESSES: Written objections are to be filed with the Naval Research Laboratory, Code 1004, 4555 Overlook Avenue SW, Washington, DC 20375-5320.

FOR FURTHER INFORMATION CONTACT:

Amanda Horansky McKinney, Head, Technology Transfer Office, NRL Code 1004, 4555 Overlook Avenue SW, Washington, DC 20375-5320, telephone 202-767-1644. Due to U.S. Postal delays, please fax 202-404-7920, email: techtran@nrl.navy.mil or use courier delivery to expedite response.

(Authority: 35 U.S.C. 207, 37 CFR part 404.)

M.S. Werner,

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

[FR Doc. 2019-04220 Filed 3-7-19; 8:45 am]

BILLING CODE 3810-FF-P

DEPARTMENT OF ENERGY

Energy Conservation Program for Consumer Products: Representative Average Unit Costs of Energy

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice.

SUMMARY: In this notice, the U.S. Department of Energy (DOE) is forecasting the representative average unit costs of five residential energy sources for the year 2019 pursuant to the Energy Policy and Conservation Act (Act). The five sources are electricity, natural gas, No. 2 heating oil, propane, and kerosene.

DATES: The representative average unit costs of energy contained in this notice will become effective April 8, 2019 and will remain in effect until further notice.

FOR FURTHER INFORMATION CONTACT:

John Cymbalsky, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy Forrestal Building, Mail Station EE-5B, 1000 Independence

Avenue SW, Washington, DC 20585-0121, (202) 287-1692, ApplianceStandardsQuestions@ee.doe.gov.

Francine Pinto, Esq. U.S. Department of Energy, Office of General Counsel Forrestal Building, Mail Station GC-33, 1000 Independence Avenue SW, Washington, DC 20585-0103, (202) 586-7432, Francine.Pinto@hq.doe.gov.

SUPPLEMENTARY INFORMATION: Section 323 of the Energy Policy and Conservation Act requires that DOE prescribe test procedures for the measurement of the estimated annual operating costs or other measures of energy consumption for certain consumer products specified in the Act. (42 U.S.C. 6293(b)(3)) These test procedures are found in Title 10 of the Code of Federal Regulations (CFR) part 430, subpart B.

Section 323(b)(3) of the Act requires that the estimated annual operating costs of a covered product be calculated from measurements of energy use in a representative average use cycle or period of use and from representative average unit costs of the energy needed to operate such product during such cycle. (42 U.S.C. 6293(b)(3)) The section further requires that DOE provide information to manufacturers regarding the representative average unit costs of energy. (42 U.S.C. 6293(b)(4)) This cost information should be used by manufacturers to meet their obligations under section 323(c) of the Act. Most notably, these costs are used to comply with Federal Trade Commission (FTC) requirements for labeling. Manufacturers are required to use the revised DOE representative average unit costs when the FTC publishes new ranges of comparability for specific covered products, 16 CFR part 305. Interested parties can also find information covering the FTC labeling requirements at <http://www.ftc.gov/appliances>.

DOE last published representative average unit costs of residential energy in a **Federal Register** notice entitled, "Energy Conservation Program for Consumer Products: Representative Average Unit Costs of Energy", dated April 24, 2018, 83 FR 17811.

On April 8, 2019, the cost figures published in this notice will become effective and supersede those cost figures published on April 24, 2018. The cost figures set forth in this notice will be effective until further notice.

DOE's Energy Information Administration (EIA) has developed the 2019 representative average unit after-tax residential costs found in this notice. These costs for electricity,

natural gas, No. 2 heating oil, and propane are based on simulations used to produce the February 2019, EIA *Short-Term Energy Outlook* (EIA releases the *Outlook* monthly). The representative average unit after-tax cost for kerosene is derived from its price relative to that of heating oil, based on the 2010 to 2013 averages of the U.S. refiner price to end users, which include all the major energy-consuming sectors in the U.S. for these fuels. The source for these price data is the January 2019, *Monthly Energy Review* DOE/EIA–

0035(2019/1). The representative average unit after-tax cost for propane is derived from its price relative to that of heating oil, based on the 2019 averages of the U.S. residential sector prices found in the *Annual Energy Outlook 2019*, AEO2019 (January 24, 2019). The *Short-Term Energy Outlook*, the *Monthly Energy Review*, and the *Annual Energy Outlook* are available on the EIA website at <http://www.eia.doe.gov>. For more information on the data sources used in this Notice, contact the National Energy Information Center, Forrestal

Building, EI–30, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–8800, email: infoctr@eia.doe.gov.

The 2019 representative average unit costs under section 323(b)(4) of the Act are set forth in Table 1, and will become effective April 8, 2019. They will remain in effect until further notice.

Issued in Washington, DC, on February 28, 2019.

Daniel R Simmons,
Assistant Secretary, Energy Efficiency and Renewable Energy.

TABLE 1—REPRESENTATIVE AVERAGE UNIT COSTS OF ENERGY FOR FIVE RESIDENTIAL ENERGY SOURCES (2019)

Type of energy	Per million Btu ¹	In commonly used terms	As required by test procedure
Electricity	\$38.83	13.2¢/kWh ^{2,3}	\$0.132/kWh.
Natural Gas	10.38	\$1.038/therm ⁴ or \$10.79/MCF ^{5,6}	0.00001038/Btu.
No. 2 Heating Oil	20.80	\$2.86/gallon ⁷	0.00002080/Btu.
Propane	21.65	\$1.98/gallon ⁸	0.00002165/Btu.
Kerosene	24.64	\$3.33/gallon ⁹	0.00002464/Btu.

Sources: U.S. Energy Information Administration, *Short-Term Energy Outlook* (February 12, 2019), *Annual Energy Outlook* (January 24, 2019), and *Monthly Energy Review* (January 28, 2019).

Notes: Prices include taxes.

¹ Btu stands for British thermal units.

² kWh stands for kilowatt hour.

³ 1 kWh = 3,412 Btu.

⁴ 1 therm = 100,000 Btu.

⁵ MCF stands for 1,000 cubic feet.

⁶ For the purposes of this table, one cubic foot of natural gas has an energy equivalence of 1,039 Btu.

⁷ For the purposes of this table, one gallon of No. 2 heating oil has an energy equivalence of 137,476 Btu.

⁸ For the purposes of this table, one gallon of liquid propane has an energy equivalence of 91,333 Btu.

⁹ For the purposes of this table, one gallon of kerosene has an energy equivalence of 135,000 Btu.

[FR Doc. 2019–04245 Filed 3–7–19; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Extension

AGENCY: U.S. Energy Information Administration (EIA), U.S. Department of Energy (DOE).

ACTION: Notice.

SUMMARY: EIA submitted an information collection request for extension as required by the Paperwork Reduction Act of 1995. The information collection requests a three-year extension with changes to Form FE–746R, “Natural Gas Imports and Exports,” OMB Control Number 1901–0294. The information collection request supports DOE’s Office of Fossil Energy (FE) in gathering critical information on the U.S. trade in natural gas, including liquefied natural gas (LNG). The data are used to monitor natural gas trade, assess the adequacy of U.S. energy resources to meet near and longer term domestic demands, and

support various market and regulatory analyses done by FE.

DATES: Comments on this information collection must be received no later than April 8, 2019. If you anticipate any difficulties in submitting your comments by the deadline, contact the DOE Desk Officer at (202) 395–0710.

ADDRESSES: Written comments should be sent to:

DOE Desk Officer: Brandon DeBruhl, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10102, 735 17th Street NW, Washington, DC 20503. Brandon_F_DeBruhl@omb.eop.gov.

Marc Talbert, U.S. Department of Energy (FE–34), Office of Regulation and International Engagement, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW, Washington, DC 20503. marc.talbert@hq.doe.gov.

FOR FURTHER INFORMATION CONTACT: Marc Talbert, (202) 586–7991, marc.talbert@hq.doe.gov. Form FE–746R and its instructions can be viewed at <http://energy.gov/fe/services/naturalgas-regulation/guidelines-filingmonthly-reports>.

SUPPLEMENTARY INFORMATION: This information collection request contains:

- (1) OMB No. 1901–0294;
- (2) *Information Collection Request Title:* “Natural Gas Imports and Exports;”
- (3) Three-year extension with changes;
- (4) *Purpose:* The Federal Energy Administration Act of 1974 (15 U.S.C. 761 *et seq.*) and the DOE Organization Act (42 U.S.C. 7101 *et seq.*) require EIA to carry out a centralized, comprehensive, and unified energy information program. This program collects, evaluates, assembles, analyzes, and disseminates information on energy resource reserves, production, demand, technology, and related economic and statistical information. Additionally, FE is authorized to regulate natural gas imports and exports, including LNG, under 15 U.S.C. 717b. In order to carry out its statutory responsibilities, FE requires anyone seeking to import or export natural gas to file an application and provide basic information on the scope and nature of the proposed import/export activity. Additionally, once an importer or exporter receives an authorization from FE, they are required

to submit monthly reports of all import and/or export transactions.

Specifically, the Form FE-746R requires the reporting of the following information by every holder of a DOE/FE import or export authorization: The name of importer/exporter; country of origin/destination; international point of entry/exit; name of supplier; volume; price; transporters; U.S. geographic market(s) served; and duration of supply contract on a monthly basis. This information is used by both EIA and FE to assess the adequacy of energy resources to meet near and longer term domestic demands, and by FE in the management of its natural gas regulatory program.

Data collected on Form FE-746R are published in *Natural Gas Imports and Exports*, *LNG Monthly Report*, and in EIA official statistics on U.S. natural gas supply and disposition. In addition, the data are used to monitor the North American natural gas trade, which, in turn, enables the Federal government to perform market and regulatory analyses; improve the capability of industry and the government to respond to any future energy-related supply problems; and keep the general public informed of international natural gas trade;

(4a) Changes to Information Collection: FE will collect heat content in Btu per cubic foot for LNG imports and exports to account for variations in the heat content of gas being imported from and exported to various countries. This change improves the quality of the import and export volume data by applying an objective standardized unit of measurement. Also, FE will use the exemptions under the Freedom of Information Act (FOIA) to protect certain information reported on Form FE-746R, including the heat content of LNG imported and exported, prices of natural gas (including LNG) imported and exported, and the specific purchaser and end-user. The data protection statement for information reported on Form FE-746R will read:

"Information reported on Form FE-746R is considered public information and may be publicly released in company identifiable form, except that the following information will be protected and not disclosed to the public to the extent that it satisfies the criteria for exemption under the Freedom of Information Act (FOIA), 5 U.S.C. 552, as amended, and the Department of Energy (DOE) regulations, 10 C.F.R. § 1004.11, implementing the FOIA:

- Price at Import or Export Point for all forms of natural gas imported and exported, including LNG;

- Name of the Specific Purchaser/End User for all forms of natural gas imports and exports, including LNG, for all modes of transportation except by pipeline; and

- Heat content for all forms of natural gas imported and exported."

Published LNG import and export prices will no longer be reported for each individual cargo, but rather will be aggregated for all LNG cargoes by month at each point of export. This change is consistent with the publication of statistical aggregates for the prices reported for natural gas imported and exported by pipeline. Additionally, there may be some statistics that are based on data from fewer than three import or export transactions. In these cases, it may be possible for a knowledgeable person to closely estimate the information reported by a specific respondent.

Data protection methods will not be applied to the aggregate statistical data published from submissions on Form FE-746R.

(5) *Annual Estimated Number of Respondents*: 371;

(6) *Annual Estimated Number of Total Responses*: 4,452;

(7) *Annual Estimated Number of Burden Hours*: 13,356;

(8) *Annual Estimated Reporting and Recordkeeping Cost Burden*: The cost of the burden hours is estimated to be \$988,611. EIA estimates that there are no additional costs to respondents associated with the surveys other than the costs associated with the burden hours.

Statutory Authority: 15 U.S.C. 772(b), 42 U.S.C. 7101 *et seq.*, 15 U.S.C. 717b.

Signed in Washington, DC, on March 4, 2019.

Shawn Bennett,

Deputy Assistant Secretary, Office of Oil and Natural Gas.

[FR Doc. 2019-04204 Filed 3-7-19; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC19-64-000.

Applicants: Brickyard Hills Project, LLC, Union Electric Company.

Description: Joint Application for Authorization Under Section 203 of the Federal Power Act, et al. of Union Electric Company, et al.

Filed Date: 3/4/19.

Accession Number: 20190304-5065.

Comments Due: 5 p.m. ET 3/25/19.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER16-1969-005.

Applicants: Midcontinent

Independent System Operator, Inc.

Description: Midcontinent

Independent System Operator, Inc.

submits compliance filing: Addtl.

compliance report filing to address

NIPSCO Order EL13-88, et al. to be

effective N/A.

Filed Date: 2/28/19.

Accession Number: 20190228-5367.

Comments Due: 5 p.m. ET 3/21/19.

Docket Numbers: ER19-158-001.

Applicants: Ambit Northeast, LLC.

Description: Report Filing: Refund

Report Filing to be effective N/A.

Filed Date: 3/1/19.

Accession Number: 20190301-5335.

Comments Due: 5 p.m. ET 3/22/19.

Docket Numbers: ER19-1174-000.

Applicants: Pacific Gas and Electric

Company.

Description: Tariff Cancellation:

Notice of Termination of PG&E Rate

Schedule FERC No. 243 (CCSF

Ravenswood TFA) to be effective 5/2/

2019.

Filed Date: 3/1/19.

Accession Number: 20190301-5348.

Comments Due: 5 p.m. ET 3/22/19.

Docket Numbers: ER19-1175-000.

Applicants: Northern Indiana Public

Service Company.

Description: Annual Informational

Attachment O filing of Northern Indiana

Public Service Company LLC.

Filed Date: 3/1/19.

Accession Number: 20190301-5361.

Comments Due: 5 p.m. ET 3/22/19.

Docket Numbers: ER19-1176-000.

Applicants: Black Hills Power, Inc.

Description: Annual Informational

Attachment H filing of Black Hills

Power, Inc.

Filed Date: 3/1/19.

Accession Number: 20190301-5365.

Comments Due: 5 p.m. ET 3/22/19.

Docket Numbers: ER19-1177-000.

Applicants: Southwest Power Pool,

Inc.

Description: § 205(d) Rate Filing:

1630R9 The Empire District Electric

Company NITSA and NOA to be

effective 2/1/2019.

Filed Date: 3/4/19.

Accession Number: 20190304-5019.

Comments Due: 5 p.m. ET 3/25/19.

Docket Numbers: ER19-1178-000.

Applicants: Southwest Power Pool,

Inc.

Description: § 205(d) Rate Filing:

3215R5 People's Electric Cooperative

NITSA NOA to be effective 2/1/2019.

Filed Date: 3/4/19.

Accession Number: 20190304–5063.

Comments Due: 5 p.m. ET 3/25/19.

Docket Numbers: ER19–1179–000.

Applicants: AES ES Gilbert, LLC.

Description: Baseline eTariff Filing: AES ES Gilbert MBR Tariff Filing to be effective 5/4/2019.

Filed Date: 3/4/19.

Accession Number: 20190304–5066.

Comments Due: 5 p.m. ET 3/25/19.

Docket Numbers: ER19–1180–000.

Applicants: First Choice Energy LLC.

Description: Baseline eTariff Filing: Baseline New to be effective 3/5/2019.

Filed Date: 3/4/19.

Accession Number: 20190304–5081.

Comments Due: 5 p.m. ET 3/25/19.

Docket Numbers: ER19–1181–000.

Applicants: Calpine Mid-Merit II, LLC.

Description: § 205(d) Rate Filing: Certificate of Concurrence for Easement, Shared Facilities & Support Agreement to be effective 3/2/2019.

Filed Date: 3/4/19.

Accession Number: 20190304–5108.

Comments Due: 5 p.m. ET 3/25/19.

Docket Numbers: ER19–1182–000.

Applicants: Alabama Power Company.

Description: § 205(d) Rate Filing: Camellia Solar LGIA Filing to be effective 2/20/2019.

Filed Date: 3/4/19.

Accession Number: 20190304–5153.

Comments Due: 5 p.m. ET 3/25/19.

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: March 4, 2019.

Kimberly D. Bose,
Secretary.

[FR Doc. 2019–04184 Filed 3–7–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL19–52–000]

Louisiana Energy and Power Authority; Notice of Filing

Take notice that on March 1, 2019, Louisiana Energy and Power Authority filed a proposed revenue requirement filing for reactive supply service for its LEPA Unit No. 1 Power Plant Facility, under Midcontinent Independent Transmission System Operator Inc. Tariff Schedule 2.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the eFiling link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the eLibrary link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email FERCOnlineSupport@ferc.gov, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on March 22, 2019.

Dated: March 4, 2019.

Kimberly D. Bose,
Secretary.

[FR Doc. 2019–04186 Filed 3–7–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER19–1180–000]

First Choice Energy LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced Innovative First Choice Energy LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is March 25, 2019.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC

Online service, please email FERCOnlineSupport@ferc.gov. or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Dated: March 4, 2019.

Kimberly D. Bose,
Secretary.

[FR Doc. 2019-04187 Filed 3-7-19; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP19-445-001.
Applicants: Iroquois Gas Transmission System, L.P.
Description: Compliance filing 022818 Petition for Approval of Pre-Filing Rate Settlement.
Filed Date: 2/28/19.
Accession Number: 20190228-5104.
Comments Due: 5 p.m. ET 3/12/19.
Docket Numbers: RP19-720-000.
Applicants: Cheniere Creole Trail Pipeline, L.P.
Description: § 4(d) Rate Filing: TRA—April to be effective 4/1/2019.
Filed Date: 2/28/19.
Accession Number: 20190228-5008.
Comments Due: 5 p.m. ET 3/12/19.
Docket Numbers: RP19-721-000.
Applicants: Cheniere Corpus Christi Pipeline, LP.
Description: § 4(d) Rate Filing: EPC—2019 to be effective 4/1/2019.
Filed Date: 2/28/19.
Accession Number: 20190228-5009.
Comments Due: 5 p.m. ET 3/12/19.
Docket Numbers: RP19-722-000.
Applicants: NEXUS Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Negotiated Rate—DTE Gas to BP Energy 960142 to be effective 3/1/2019.
Filed Date: 2/28/19.
Accession Number: 20190228-5010.
Comments Due: 5 p.m. ET 3/12/19.
Docket Numbers: RP19-723-000.
Applicants: NEXUS Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Negotiated Rates—Columbia 860005 releases eff 3-1-2019 to be effective 3/1/2019.
Filed Date: 2/28/19.
Accession Number: 20190228-5011.
Comments Due: 5 p.m. ET 3/12/19.
Docket Numbers: RP19-724-000.

Applicants: Algonquin Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Negotiated Rate—Bay 510066 to UGI 798797 to be effective 3/1/2019.
Filed Date: 2/28/19.
Accession Number: 20190228-5037.
Comments Due: 5 p.m. ET 3/12/19.
Docket Numbers: RP19-725-000.
Applicants: Northern Natural Gas Company.
Description: § 4(d) Rate Filing: 20190228 Negotiated Rates to be effective 3/1/2019.
Filed Date: 2/28/19.
Accession Number: 20190228-5041.
Comments Due: 5 p.m. ET 3/12/19.
Docket Numbers: RP19-726-000.
Applicants: Gulf South Pipeline Company, LP.
Description: § 4(d) Rate Filing: Cap Rel Neg Rate Agmts (Coastal Bend releases eff 3-1-2019) to be effective 3/1/2019.
Filed Date: 2/28/19.
Accession Number: 20190228-5044.
Comments Due: 5 p.m. ET 3/12/19.
Docket Numbers: RP19-727-000.
Applicants: Gulf South Pipeline Company, LP.
Description: § 4(d) Rate Filing: Cap Rel Neg Rate Agmt (Aethon 50488 to Scona 50760) to be effective 3/1/2019.
Filed Date: 2/28/19.
Accession Number: 20190228-5045.
Comments Due: 5 p.m. ET 3/12/19.
Docket Numbers: RP19-728-000.
Applicants: Gulf South Pipeline Company, LP.
Description: § 4(d) Rate Filing: Cap Rel Neg Rate Agmts (Atlanta Gas 8438 to various eff 3-1-2019) to be effective 3/1/2019.
Filed Date: 2/28/19.
Accession Number: 20190228-5046.
Comments Due: 5 p.m. ET 3/12/19.
Docket Numbers: RP19-729-000.
Applicants: Gulf South Pipeline Company, LP.
Description: § 4(d) Rate Filing: Cap Rel Neg Rate Agmt (Petrohawk 41455 to BP 50759) to be effective 3/1/2019.
Filed Date: 2/28/19.
Accession Number: 20190228-5047.
Comments Due: 5 p.m. ET 3/12/19.
Docket Numbers: RP19-730-000.
Applicants: Gulf South Pipeline Company, LP.
Description: § 4(d) Rate Filing: Remove Expired Agmts eff 3-1-2019 to be effective 3/1/2019.
Filed Date: 2/28/19.
Accession Number: 20190228-5048.
Comments Due: 5 p.m. ET 3/12/19.
Docket Numbers: RP19-731-000.
Applicants: Kern River Gas Transmission Company.

Description: § 4(d) Rate Filing: 2019 March Negotiated Rate to be effective 3/1/2019.
Filed Date: 2/28/19.
Accession Number: 20190228-5077.
Comments Due: 5 p.m. ET 3/12/19.
Docket Numbers: RP19-732-000.
Applicants: El Paso Natural Gas Company, L.L.C.
Description: § 4(d) Rate Filing: Non-Conforming Negotiated Rate Agreement Update (SoCal Mar 19) to be effective 3/1/2019.
Filed Date: 2/28/19.
Accession Number: 20190228-5083.
Comments Due: 5 p.m. ET 3/12/19.
Docket Numbers: RP19-733-000.
Applicants: Colorado Interstate Gas Company, L.L.C.
Description: § 4(d) Rate Filing: Semi Annual Fuel and LUF Update to be effective 4/1/2019.
Filed Date: 2/28/19.
Accession Number: 20190228-5101.
Comments Due: 5 p.m. ET 3/12/19.
Docket Numbers: RP19-734-000.
Applicants: Equitrans, L.P.
Description: § 4(d) Rate Filing: 3-1-2019 Formula-Based Negotiated Rates to be effective 3/1/2019.
Filed Date: 2/28/19.
Accession Number: 20190228-5105.
Comments Due: 5 p.m. ET 3/12/19.
Docket Numbers: RP19-735-000.
Applicants: TransColorado Gas Transmission Company LLC.
Description: § 4(d) Rate Filing: Quarterly FL&U Update to be effective 4/1/2019.
Filed Date: 2/28/19.
Accession Number: 20190228-5106.
Comments Due: 5 p.m. ET 3/12/19.
Docket Numbers: RP19-736-000.
Applicants: Millennium Pipeline Company, LLC.
Description: § 4(d) Rate Filing: Non-Conforming & Negotiated Rate Svc Agmt—ConEd to be effective 3/30/2019.
Filed Date: 2/28/19.
Accession Number: 20190228-5109.
Comments Due: 5 p.m. ET 3/12/19.
Docket Numbers: RP19-737-000.
Applicants: Transcontinental Gas Pipe Line Company, LLC.
Description: § 4(d) Rate Filing: Clean Up and Revise FOS—March 2019 to be effective 3/31/2019.
Filed Date: 2/28/19.
Accession Number: 20190228-5122.
Comments Due: 5 p.m. ET 3/12/19.
Docket Numbers: RP19-738-000.
Applicants: Algonquin Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Negotiated Rate—Yankee to Direct Energy 798804 to be effective 3/1/2019.
Filed Date: 2/28/19.

- Accession Number:* 20190228–5123.
Comments Due: 5 p.m. ET 3/12/19.
Docket Numbers: RP19–739–000.
Applicants: Gulfstream Natural Gas System, L.L.C.
Description: § 4(d) Rate Filing: Negotiated Rate—Duke Energy 9196760 eff 3–1–19 to be effective 3/1/2019.
Filed Date: 2/28/19.
Accession Number: 20190228–5124.
Comments Due: 5 p.m. ET 3/12/19.
Docket Numbers: RP19–740–000.
Applicants: High Point Gas Transmission, LLC.
Description: Compliance filing Annual Unaccounted for Gas Retention Percentage Filing.
Filed Date: 2/28/19.
Accession Number: 20190228–5134.
Comments Due: 5 p.m. ET 3/12/19.
Docket Numbers: RP19–741–000.
Applicants: ANR Pipeline Company.
Description: § 4(d) Rate Filing: ANR Fuel Filing 2019 to be effective 4/1/2019.
Filed Date: 2/28/19.
Accession Number: 20190228–5188.
Comments Due: 5 p.m. ET 3/12/19.
Docket Numbers: RP19–742–000.
Applicants: Equitrans, L.P.
Description: § 4(d) Rate Filing: Negotiated Rate Agreement—EQT Energy ITS to be effective 3/1/2019.
Filed Date: 2/28/19.
Accession Number: 20190228–5197.
Comments Due: 5 p.m. ET 3/12/19.
Docket Numbers: RP19–743–000.
Applicants: Transcontinental Gas Pipe Line Company, LLC.
Description: § 4(d) Rate Filing: Negotiated Rates—Cherokee AGL—Replacement Shippers—Mar 2019 to be effective 3/1/2019.
Filed Date: 2/28/19.
Accession Number: 20190228–5198.
Comments Due: 5 p.m. ET 3/12/19.
Docket Numbers: RP19–744–000.
Applicants: NEXUS Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Negotiated Rate—Columbia to Alpha 960182 to be effective 3/1/2019.
Filed Date: 2/28/19.
Accession Number: 20190228–5199.
Comments Due: 5 p.m. ET 3/12/19.
Docket Numbers: RP19–745–000.
Applicants: Tennessee Gas Pipeline Company, L.L.C.
Description: § 4(d) Rate Filing: Volume No. 2—Mercuria Energy America, Inc. SP344260 to be effective 4/1/2019.
Filed Date: 2/28/19.
Accession Number: 20190228–5211.
Comments Due: 5 p.m. ET 3/12/19.
Docket Numbers: RP19–746–000.
Applicants: Columbia Gas Transmission, LLC.
Description: § 4(d) Rate Filing: TCO Neg Rate and NC Agreement Clean-Up (Part 1) to be effective 4/1/2019.
Filed Date: 2/28/19.
Accession Number: 20190228–5227.
Comments Due: 5 p.m. ET 3/12/19.
Docket Numbers: RP19–747–000.
Applicants: Dominion Energy Cove Point LNG, LP.
Description: § 4(d) Rate Filing: DECP—2019 Annual EPCA to be effective 4/1/2019.
Filed Date: 2/28/19.
Accession Number: 20190228–5248.
Comments Due: 5 p.m. ET 3/12/19.
Docket Numbers: RP19–748–000.
Applicants: Dominion Energy Cove Point LNG, LP.
Description: § 4(d) Rate Filing: DECP—2019 Annual Fuel Retainage to be effective 4/1/2019.
Filed Date: 2/28/19.
Accession Number: 20190228–5238.
Comments Due: 5 p.m. ET 3/12/19.
Docket Numbers: RP19–749–000.
Applicants: Texas Eastern Transmission, LP.
Description: § 4(d) Rate Filing: Negotiated Rate—CFE to Conocophillips 8956429 to be effective 3/1/2019.
Filed Date: 2/28/19.
Accession Number: 20190228–5249.
Comments Due: 5 p.m. ET 3/12/19.
Docket Numbers: RP19–750–000.
Applicants: Golden Pass Pipeline LLC.
Description: Compliance filing GPPL Operational Purchases and Sales for 2018 Revised.
Filed Date: 2/28/19.
Accession Number: 20190228–5263.
Comments Due: 5 p.m. ET 3/12/19.
Docket Numbers: RP19–751–000.
Applicants: Kinder Morgan Louisiana Pipeline LLC.
Description: § 4(d) Rate Filing: Sabine Pass Negotiated Rate to be effective 4/1/2019.
Filed Date: 2/28/19.
Accession Number: 20190228–5267.
Comments Due: 5 p.m. ET 3/12/19.
Docket Numbers: RP19–752–000.
Applicants: Fayetteville Express Pipeline LLC.
Description: § 4(d) Rate Filing: Filed Agreements Housekeeping to be effective 3/31/2019.
Filed Date: 2/28/19.
Accession Number: 20190228–5269.
Comments Due: 5 p.m. ET 3/12/19.
Docket Numbers: RP19–753–000.
Applicants: Equitrans, L.P.
Description: § 4(d) Rate Filing: AVC Storage Loss Retainage Factor Update—2019 to be effective 4/1/2019.
Filed Date: 2/28/19.
Accession Number: 20190228–5275.
Comments Due: 5 p.m. ET 3/12/19.
Docket Numbers: RP19–754–000.
Applicants: Rockies Express Pipeline LLC.
Description: § 4(d) Rate Filing: Neg Rate 2019–02–28 Encana to be effective 3/1/2019.
Filed Date: 2/28/19.
Accession Number: 20190228–5288.
Comments Due: 5 p.m. ET 3/12/19.
Docket Numbers: RP19–755–000.
Applicants: Rockies Express Pipeline LLC.
Description: § 4(d) Rate Filing: Neg Rate 2019–02–28 E2W (5) to be effective 3/1/2019.
Filed Date: 2/28/19.
Accession Number: 20190228–5311.
Comments Due: 5 p.m. ET 3/12/19.
Docket Numbers: RP19–756–000.
Applicants: Columbia Gulf Transmission, LLC.
Description: § 4(d) Rate Filing: GXP Amendments Filing to be effective 2/28/2019.
Filed Date: 2/28/19.
Accession Number: 20190228–5318.
Comments Due: 5 p.m. ET 3/12/19.
- 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.
- Filing 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: March 4, 2019.
Kimberly D. Bose,
Secretary.
[FR Doc. 2019–04182 Filed 3–7–19; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory
Commission

[Docket No. CP18–525–000]

Gulf South Pipeline Company, LP;
Notice of Availability of the
Environmental Assessment for the
Proposed Willis Lateral Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) for the Willis Lateral Project (Project), proposed by Gulf South Pipeline Company, LP (Gulf South) in the above-referenced docket. Gulf South requests authorization to construct and operate certain natural gas pipeline facilities in Liberty, Polk, Montgomery, and San Jacinto Counties, Texas. The proposed facilities would allow Gulf South to provide about 200 million cubic feet of natural gas per day to Entergy Texas, Inc.'s Montgomery County Power Station Project near Willis, Texas.

The EA assesses the potential environmental effects of the construction and operation of the Willis Lateral Project in accordance with the requirements of the National Environmental Policy Act. The FERC staff concludes that approval of the proposed Project, with appropriate mitigating measures, would not constitute a major federal action significantly affecting the quality of the human environment.

The proposed Willis Lateral Project includes the following facilities entirely within the state of Texas:

- Construction of approximately 19 miles of 24-inch-diameter pipeline in Montgomery and San Jacinto Counties;
- addition of a new 15,876 horsepower turbine engine to the existing Goodrich Compressor Station and construction of a new meter and regulator station at the compressor station in Polk County;
- construction of the Index 129 tie-in and pig¹ launcher facility in San Jacinto County;
- construction of the new Willis meter and regulator station at the terminus of the Project (including a pig receiver, filter separators with a liquid storage tank, and ancillary equipment) in Montgomery County; and
- construction of a mainline valve facility in Montgomery County.

¹ A pig is a tool that the pipeline company inserts into and pushes through the pipeline for cleaning the pipeline, conducting internal inspections, or other purposes.

The Commission mailed a copy of the *Notice of Availability* for the EA to federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American tribes; potentially affected landowners and other interested individuals and groups; and newspapers and libraries in the Project area. The EA is only available in electronic format. It may be viewed and downloaded from the FERC's website (www.ferc.gov), on the Environmental Documents page (<https://www.ferc.gov/industries/gas/enviro/eis.asp>). In addition, the EA may be accessed by using the eLibrary link on the FERC's website. Click on the eLibrary link (<https://www.ferc.gov/docs-filing/elibrary.asp>), click on General Search, and enter the docket number in the Docket Number field, excluding the last three digits (*i.e.* CP18–525). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at FercOnlineSupport@ferc.gov or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Any person wishing to comment on the EA may do so. Your comments should focus on EA's disclosure and discussion of potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that the Commission has the opportunity to consider your comments prior to making its decision on this Project, it is important that we receive your comments in Washington, DC on or before 5:00 p.m. Eastern Time on April 3, 2019.

For your convenience, there are three methods you can use to file your comments to the Commission. The Commission encourages electronic filing of comments and has staff available to assist you at (866) 208–3676 or FercOnlineSupport@ferc.gov. Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the *eComment* feature on the Commission's website (www.ferc.gov) under the link to *Documents and Filings*. This is an easy method for submitting brief, text-only comments on a project;

(2) You can also file your comments electronically using the *eFiling* feature on the Commission's website (www.ferc.gov) under the link to *Documents and Filings*. With *eFiling*, you can provide comments in a variety of formats by attaching them as a file

with your submission. New *eFiling* users must first create an account by clicking on *eRegister*. You must select the type of filing you are making. If you are filing a comment on a particular project, please select "Comment on a Filing"; or

(3) You can file a paper copy of your comments by mailing them to the following address. Be sure to reference the Project docket number (CP18–525–000) with your submission: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426

Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214). Motions to intervene are more fully described at <http://www.ferc.gov/resources/guides/how-to/intervene.asp>. Only intervenors have the right to seek rehearing or judicial review of the Commission's decision. The Commission may grant affected landowners and others with environmental concerns intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which no other party can adequately represent. Simply filing environmental comments will not give you intervenor status, but you do not need intervenor status to have your comments considered.

Additional information about the Project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website (www.ferc.gov) using the *eLibrary* link. The *eLibrary* link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called *eSubscription* which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to www.ferc.gov/docs-filing/esubscription.asp.

Dated: March 4, 2019.

Kimberly D. Bose,
Secretary.

[FR Doc. 2019–04183 Filed 3–7–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Docket No. EL19–51–000]

Cube Yadkin Generation, L.L.C. v. PJM Interconnection, L.L.C.; Notice of Complaint

Take notice that on March 1, 2019, Cube Yadkin Generation, L.L.C. (Cube Yadkin or Complainant) filed a formal complaint against PJM Interconnection, L.L.C. (PJM or Respondent) pursuant to sections 206 and 306 of the Federal Power Act, 16 U.S.C. 824e, 825e, and Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206 (2018), alleging that PJM's pseudo-tie requirements applicable to external resources seeking to participate in PJM's capacity market as applied by PJM are unjust, unreasonable and unduly discriminatory and preferential, all as more fully explained in the complaint.

Cube Yadkin certifies that copies of the complaint was served on the contacts for PJM as listed on the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the eFiling link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the eLibrary link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance

with any FERC Online service, please email FERCOnlineSupport@ferc.gov, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on March 21, 2019.

Dated: March 4, 2019.

Kimberly D. Bose,
Secretary.

[FR Doc. 2019–04185 Filed 3–7–19; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9990–69–OAR]

Meeting of the Mobile Sources Technical Review Subcommittee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, notice is hereby given that the Mobile Sources Technical Review Subcommittee (MSTRS) will meet on April 2, 2019. The MSTRS is a subcommittee under the Clean Air Act Advisory Committee. This is an open meeting. The meeting will include discussion of current topics and presentations about activities being conducted by EPA's Office of Transportation and Air Quality. The preliminary agenda for the meeting and any notices about change in venue will be posted on the Subcommittee's website: <http://www2.epa.gov/caaac/mobile-sources-technical-review-subcommittee-mstrs-caaac>. MSTRS listserv subscribers will receive notification when the agenda is available on the Subcommittee website. To subscribe to the MSTRS listserv, send an email to mccubbin.courtney@epa.gov.

DATES: Tuesday, April 2, 2019 from 9:00 a.m. to 4:30 p.m. Registration begins at 8:30 a.m.

ADDRESSES: The meeting is currently scheduled to be held at The Ritz-Carlton Pentagon City at 1250 South Hayes Street, Arlington, Virginia 22202. However, this date and location are subject to change and interested parties should monitor the Subcommittee website (above) for the latest logistical information.

FOR FURTHER INFORMATION CONTACT: Courtney McCubbin, Designated Federal Officer, Transportation and Climate Division, Mailcode 6406A, U.S. EPA, 1200 Pennsylvania Ave. NW, Washington, DC 20460; Ph: 202–564–

2436; email: mccubbin.courtney@epa.gov.

Background on the work of the Subcommittee is available at: <https://www.epa.gov/caaac/mobile-sources-technical-review-subcommittee-mstrs-caaac>. Individuals or organizations wishing to provide comments to the Subcommittee should submit them to Ms. McCubbin at the address above by March 20, 2019. The Subcommittee expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements.

SUPPLEMENTARY INFORMATION: During the meeting, the Subcommittee may also hear progress reports from some of its workgroups as well as updates and announcements on activities of general interest to attendees.

For Individuals With Disabilities: For information on access or services for individuals with disabilities, please contact Ms. McCubbin (see above). To request accommodation of a disability, please contact Ms. McCubbin, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: February 26, 2019.

Christopher Grundler,
Director, Office of Transportation and Air Quality.

[FR Doc. 2019–04255 Filed 3–7–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9990–06–OA]

Notification of a Public Teleconference of the Chartered Clean Air Scientific Advisory Committee (CASAC)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA Science Advisory Board (SAB) Staff Office announces a public teleconference of the Chartered Clean Air Scientific Advisory Committee (CASAC) to discuss its draft review of the EPA's *Integrated Science Assessment (ISA) for Particulate Matter (External Review Draft—October 2018)*.

DATES: The teleconference will be held on Thursday, March 28, 2019, from 11 a.m. to 3 p.m. (Eastern Time).

ADDRESSES: The public teleconference will be held by telephone only.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing to obtain information concerning the public meeting may contact Mr. Aaron Yeow,

Designated Federal Officer (DFO), EPA Science Advisory Board Staff Office (1400R), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460; by telephone/voice mail at (202) 564-2050 or at yeow.aaron@epa.gov. General information about the CASAC, as well as any updates concerning the meeting announced in this notice, may be found on the CASAC web page at <http://www.epa.gov/casac>.

SUPPLEMENTARY INFORMATION: The CASAC was established pursuant to the Clean Air Act (CAA) Amendments of 1977, codified at 42 U.S.C. 7409(d)(2), to review air quality criteria and NAAQS and recommend any new NAAQS and revisions of existing criteria and NAAQS as may be appropriate. The CASAC shall also provide advice, information, and recommendations to the Administrator on the scientific and technical aspects of issues related to the criteria for air quality standards, research related to air quality, sources of air pollution, and of adverse effects which may result from various strategies to attain and maintain air quality standards. The CASAC is a Federal Advisory Committee chartered under the Federal Advisory Committee Act (FACA), 5 U.S.C., App. 2. Section 109(d)(1) of the CAA requires that the Agency periodically review and revise, as appropriate, the air quality criteria and the NAAQS for the six "criteria" air pollutants, including particulate matter. EPA is currently reviewing the NAAQS for particulate matter (PM).

Pursuant to FACA and EPA policy, notice is hereby given that the Chartered CASAC will hold a public teleconference to discuss its draft review of the EPA's *Integrated Science Assessment (ISA) for Particulate Matter (External Review Draft—October 2018)*. The Chartered CASAC will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

Technical Contacts: Any technical questions concerning the *Integrated Science Assessment for Particulate Matter (External Review Draft—October 2018)* should be directed to Mr. Jason Sacks (sacks.jason@epa.gov).

Availability of Meeting Materials: Prior to the meeting, the review documents, agenda and other materials will be accessible on the CASAC web page at <http://www.epa.gov/casac/>.

Procedures for Providing Public Input: Public comment for consideration by EPA's federal advisory committees and panels has a different purpose from public comment provided to EPA

program offices. Therefore, the process for submitting comments to a federal advisory committee is different from the process used to submit comments to an EPA program office. Federal advisory committees and panels, including scientific advisory committees, provide independent advice to EPA. Members of the public can submit relevant comments on the topic of this advisory activity, including the charge to the CASAC and the EPA review documents, and/or the group conducting the activity, for the CASAC to consider as it develops advice for EPA. Input from the public to the CASAC will have the most impact if it provides specific scientific or technical information or analysis for CASAC to consider or if it relates to the clarity or accuracy of the technical information. Members of the public wishing to provide comment should follow the instructions below to submit comments.

Oral Statements: In general, individuals or groups requesting an oral presentation at a public teleconference will be limited to three minutes. Each person making an oral statement should consider providing written comments as well as their oral statement so that the points presented orally can be expanded upon in writing. Interested parties should contact Mr. Aaron Yeow, DFO, in writing (preferably via email) at the contact information noted above by March 21, 2019, to be placed on the list of public speakers.

Written Statements: Written statements will be accepted throughout the advisory process; however, for timely consideration by CASAC members, statements should be supplied to the DFO (preferably via email) at the contact information noted above by March 21, 2019. It is the SAB Staff Office general policy to post written comments on the web page for the advisory meeting or teleconference. Submitters are requested to provide an unsigned version of each document because the SAB Staff Office does not publish documents with signatures on its websites. Members of the public should be aware that their personal contact information, if included in any written comments, may be posted to the CASAC website. Copyrighted material will not be posted without explicit permission of the copyright holder.

Accessibility: For information on access or services for individuals with disabilities, please contact Mr. Aaron Yeow at (202) 564-2050 or yeow.aaron@epa.gov. To request accommodation of a disability, please contact Mr. Yeow preferably at least ten days prior to each

meeting to give EPA as much time as possible to process your request.

Dated: February 19, 2019.

Khanna Johnston,

Deputy Director, EPA Science Advisory Staff Office.

[FR Doc. 2019-04254 Filed 3-7-19; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-9043-7]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information 202-564-5632 or <https://www.epa.gov/nepa/>.

Weekly receipt of Environmental Impact Statements

Filed 02/25/2019 Through 03/01/2019

Pursuant to 40 CFR 1506.9.

Notice:

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: <https://cdxnodengn.epa.gov/cdx-enepa-public/action/eis/search>.

EIS No. 20190019, Draft, USFS, MT, Custer Gallatin Forest Plan Revision, Comment Period Ends: 06/06/2019, Contact: Mariah Leuschen 406-587-6735.

EIS No. 20190021, Draft, UDOT, UT, I-15 Mile Post 11 Interchange, Comment Period Ends: 04/22/2019, Contact: Elisa Albury 801-834-5284.

EIS No. 20190022, Draft Supplement, BLM, NV, Mount Hope Project Supplemental Environmental Impact Statement, Comment Period Ends: 04/22/2019, Contact: Kevin Hurrell 775-635-4000.

Amended Notice:

EIS No. 20190020, Final, USFS, CA, WITHDRAWN—Exchequer Restoration Project, Review Period Ends: 04/01/2019, Contact: Elaine Locke 559-855-5355.

Revision to FR Notice Published 03/01/2019; Officially Withdrawn per request of the submitting agency.

Dated: March 5, 2019.

Robert Tomiak,

Director, Office of Federal Activities.

[FR Doc. 2019-04208 Filed 3-7-19; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-ORD-2015-0765; FRL-9990-51-ORD]

Board of Scientific Counselors (BOSC) Chemical Safety for Sustainability Subcommittee Meeting—April 2019**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice of meeting.**SUMMARY:** Pursuant to the Federal Advisory Committee Act the U.S. Environmental Protection Agency, Office of Research and Development (ORD), gives notice of a meeting of the Board of Scientific Counselors (BOSC) Chemical Safety for Sustainability Subcommittee.**DATES:** The meeting will be held on Wednesday, April 10, 2019, from 8 a.m. to 5 p.m., Thursday, April 11, 2019, from 8 a.m. until 5 p.m. and Friday, April 12, 2019, from 8 a.m. until 2 p.m. All times noted are Eastern Time and approximate. The meeting may adjourn early if all business is finished. Attendees should register by April 3, 2019 at <https://www.eventbrite.com/e/us-epa-bosc-chemical-safety-for-sustainability-subcommittee-meeting-tickets-56585089526>. Requests for making oral presentations at the meeting will be accepted up to one business day before the meeting.**ADDRESSES:** The meeting will be held at the EPA's Research Triangle Park Main Campus Facility, 109 T.W. Alexander Drive, Research Triangle Park, North Carolina 27711. Submit your comments to Docket ID No. EPA-HQ-ORD-2015-0765 by one of the following methods:

- **www.regulations.gov:** Follow the on-line instructions for submitting comments.
- **Email:** Send comments by electronic mail (email) to: ORD.Docket@epa.gov, Attention Docket ID No. EPA-HQ-ORD-2015-0765.
- **Fax:** Fax comments to: (202) 566-0224, Attention Docket ID No. EPA-HQ-ORD-2015-0765.
- **Mail:** Send comments by mail to: Board of Scientific Counselors (BOSC) Chemical Safety for Sustainability Subcommittee Docket, Mail Code: 2822T, 1301 Constitution Ave. NW, Washington, DC, 20004, Attention Docket ID No. EPA-HQ-ORD-2015-0765.
- **Hand Delivery or Courier:** Deliver comments to: EPA Docket Center (EPA/DC), Room 3334, William Jefferson Clinton West Building, 1301 Constitution Ave. NW, Washington, DC, Attention Docket ID No. EPA-HQ-

ORD-2015-0765. Note: this is not a mailing address. Deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov including any personal information provided unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or email. The www.regulations.gov website is an "anonymous access" system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through www.regulations.gov, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about the EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/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 Board of Scientific Counselors (BOSC) Chemical Safety for Sustainability Subcommittee Docket, EPA/DC, William Jefferson Clinton West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone

number for the Public Reading Room is (202) 566-1744, and the telephone number for the ORD Docket is (202) 566-1752.

FOR FURTHER INFORMATION CONTACT: The Designated Federal Officer via mail at: Tom Tracy, Mail Code 8104R, Office of Science Policy, Office of Research and Development, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; via phone/voice mail at: (202) 564-6518; via fax at: (202) 565-2911; or via email at: tracy.tom@epa.gov.

SUPPLEMENTARY INFORMATION:

General Information: The meeting is open to the public. Any member of the public interested in receiving a draft agenda, attending the meeting, or making a presentation at the meeting may contact Tom Tracy, the Designated Federal Officer, via any of the contact methods listed in the **FOR FURTHER INFORMATION CONTACT** section above. Individuals making an oral presentation will be limited to a total of three minutes. For security purposes, all attendees must provide their names to the Designated Federal Officer by registering online at <https://www.eventbrite.com/e/us-epa-bosc-chemical-safety-for-sustainability-subcommittee-meeting-tickets-56585089526> by April 3, 2019, and must go through a metal detector, sign in with the security desk, and show REAL ID Act-compliant government-issued photo identification to enter the building. Attendees are encouraged to arrive at least 15 minutes prior to the start of the meeting to allow sufficient time for security screening. Proposed agenda items for the meeting include but are not limited to the following: Overview of materials provided to the subcommittee, update on ORD's Chemical Safety for Sustainability and Human Health Risk Assessment Research Programs, draft Strategic Research Action Plans, review of charge questions, and subcommittee discussion.

Information on Services for Individuals with Disabilities: For information on access or services for individuals with disabilities, please contact Tom Tracy at (202) 564-6518 or tracy.tom@epa.gov. To request accommodation of a disability, please contact Tom Tracy, preferably at least ten days prior to the meeting, to give the EPA as much time as possible to process your request.

Dated February 19, 2019.

Fred S. Hauchman,*Director, Office of Science Policy.*

[FR Doc. 2019-04165 Filed 3-7-19; 8:45 am]

BILLING CODE 6560-50-P

FARM CREDIT SYSTEM INSURANCE CORPORATION

Regular Meeting; Farm Credit System Insurance Corporation Board

AGENCY: Farm Credit System Insurance Corporation.

ACTION: Notice, regular meeting.

SUMMARY: Notice is hereby given of the regular meeting of the Farm Credit System Insurance Corporation Board (Board).

DATES: The meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on March 14, 2019, from 2:00 p.m. until such time as the Board concludes its business.

ADDRESSES: Farm Credit System Insurance Corporation, 1501 Farm Credit Drive, McLean, Virginia 22102. Submit attendance requests via email to VisitorRequest@FCA.gov. See **SUPPLEMENTARY INFORMATION** for further information about attendance requests.

FOR FURTHER INFORMATION CONTACT: Dale Aultman, Secretary to the Farm Credit System Insurance Corporation Board, (703) 883-4009, TTY (703) 883-4056, aultmand@fca.gov.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public (limited space available), and parts will be closed to the public. Please send an email to VisitorRequest@FCA.gov at least 24 hours before the meeting. In your email include: Name, postal address, entity you are representing (if applicable), and telephone number. You will receive an email confirmation from us. Please be prepared to show a photo identification when you arrive. If you need assistance for accessibility reasons, or if you have any questions, contact Dale Aultman, Secretary to the Farm Credit System Insurance Corporation Board, at (703) 883-4009. The matters to be considered at the meeting are:

Open Session

A. Approval of Minutes

- January 17, 2019

B. Business Reports

- FCSIC Financial Reports
- Report on Insured Obligations
- Report on Annual Performance

C. New Business

- Report of Investment Portfolio
- Presentation of 2018 Audit Results
- Consideration of Allocated Insurance Reserves Account

Closed Session

- FCSIC Report on Insurance Risk

Executive Session—Audit Committee

- Executive Session of the FCSIC Board Audit Committee with the External Auditor

Dated: March 4, 2019.

Dale Aultman,

Secretary, Farm Credit System Insurance Corporation.

[FR Doc. 2019-04274 Filed 3-7-19; 8:45 am]

BILLING CODE 6705-01-P

FEDERAL COMMUNICATIONS COMMISSION

Federal Advisory Committee Act; Communications Security, Reliability, and Interoperability Council

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Federal Communications Commission (Commission) hereby announces that the charter of the Communications Security, Reliability, and Interoperability Council (hereinafter CSRIC) has been renewed pursuant to the Federal Advisory Committee Act (FACA).

FOR FURTHER INFORMATION CONTACT: Suzon Cameron, Designated Federal Officer, Federal Communications Commission, Public Safety and Homeland Security Bureau, (202) 418-1916 or email: suzon.cameron@fcc.gov, or Kurian Jacob, Deputy Designated Federal Officer, Federal Communications Commission, Public Safety and Homeland Security Bureau, (202) 418-2040 or email: kurian.jacob@fcc.gov.

SUPPLEMENTARY INFORMATION: On February 28, 2019, the General Services Administration approved renewal of the charter of the CSRIC pursuant to provisions of the FACA. The Commission intends to renew the charter on or before March 15, 2019 and provide the CSRIC with authorization to operate for two years from the effective date.

The CSRIC provides recommendations to the FCC regarding ways the FCC can strive for security, reliability, and interoperability of communications systems. CSRIC's recommendations focus on a range of public safety and homeland security-related communications matters, including: (1) The reliability of communications systems and

infrastructure; (2) 911, Enhanced 911 (E911), and Next Generation 911 (NG911); (3) emergency alerting; and (4) national security/emergency preparedness (NS/EP) communications, including law enforcement access to communications.

During the CSRIC's charter, it is anticipated that the CSRIC will meet in Washington, DC for quarterly, one-day meetings. The meeting date will be announced in a Public Notice issued and published in the **Federal Register** at least fifteen (15) days prior to the first meeting date.

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2019-04246 Filed 3-7-19; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on the agreements to the Secretary by email at Secretary@fmc.gov, or by mail, Federal Maritime Commission, Washington, DC 20573, within twelve days of the date this notice appears in the **Federal Register**. Copies of agreements are available through the Commission's website (www.fmc.gov) or by contacting the Office of Agreements at (202)-523-5793 or tradeanalysis@fmc.gov.

Agreement No.: 011666-006.

Agreement Name: West Coast North America/Pacific Islands Vessel Sharing Agreement.

Parties: Maersk Line A/S and The China Navigation Co. Pte. Ltd.

Filing Party: Wayne Rohde; Cozen O'Connor.

Synopsis: The amendment deletes Hamburg Sud as a party to the Agreement and replaces it with Maersk Line A/S. It also replaces Article 12 of the Agreement.

Proposed Effective Date: 4/14/2019.

Location: <https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/795>.

Dated: March 4, 2019.

Rachel Dickon,

Secretary.

[FR Doc. 2019-04169 Filed 3-7-19; 8:45 am]

BILLING CODE 6731-AA-P

FEDERAL RESERVE SYSTEM**Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB With Request for Comments**

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice; extension of comment period.

SUMMARY: On November 30, 2018, the Board published a notice in the **Federal Register** (83 FR 61635) requesting public comment for 60 days on a proposal to extend for three years, with revision, the Application to Become a Savings and Loan Holding Company or to Acquire a Savings Association or Savings and Loan Holding Company (FR LL-10(e); OMB No. 7100-0336). The comment period for this notice expired on January 29, 2019. For reasons described below, the Board has determined that it is appropriate to reopen the comment period for 30 days. This action will allow interested persons additional time to analyze the proposal and prepare their comments.

DATES: Comments must be submitted on or before April 8, 2019.

ADDRESSES: You may submit comments, identified by *FR LL-10(e)*, by any of the following methods:

- **Agency Website:** <http://www.federalreserve.gov>. Follow the instructions for submitting comments at <http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm>.

- **Email:** regs.comments@federalreserve.gov. Include OMB number in the subject line of the message.

- **Fax:** (202) 452-3819 or (202) 452-3102.

- **Mail:** Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available from the Board's website at <http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm> as submitted, unless modified for technical reasons. Accordingly, comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room 146, 1709 New York Avenue NW, Washington, DC 20006 between 9:00 a.m. and 5:00 p.m. on weekdays.

Additionally, commenters may send a copy of their comments to the OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs,

Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395-6974.

FOR FURTHER INFORMATION CONTACT: A copy of the PRA OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, if approved. These documents will also be made available on the Board's public website at <http://www.federalreserve.gov/apps/reportforms/review.aspx> or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452-3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263-4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION: On November 30, 2018, the Board invited public comment on a proposal to extend for three years, with revision, the FR LL-10(e). The FR LL-10(e) collects information that must be filed in connection with certain proposals involving the formation, acquisition, or merger of a savings and loan holding company.

At the time the Board invited public comment on the proposal, it made available a version of the proposed reporting form and instructions on the Board's public website. However, the version that was made available on the Board's public website mistakenly omitted the proposed certification page for the FR LL-10(e). The certification page records identification and contact information for the applicant, whether the applicant is requesting confidential treatment for materials submitted, and a certification by a representative of the applicant that, among other things, the information provided in the application is accurate to the best of the signatory's knowledge and belief. A version of this certification page is currently included as part of the current form (Form H-(e)). The proposed version of the certification page would alter the style and formatting of the certification page to make it consistent with certification pages found in other Board forms. This proposed version of the certification page is now available on the Board's public website as part of the proposed reporting form and instructions for this collection of information.

In order to provide the public with an opportunity to review and comment on the certification page, the Board is reopening the comment period on this proposal for a period of 30 days.

By order of the Board of Governors of the Federal Reserve System, acting through the Secretary of the Board under delegated authority, March 4, 2019.

Ann E. Misback,

Secretary of the Board.

[FR Doc. 2019-04175 Filed 3-7-19; 8:45 am]

BILLING CODE 6210-01-P

FEDERAL RESERVE SYSTEM**Notice of Proposals To Engage in or To Acquire Companies Engaged in Permissible Nonbanking Activities**

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 25, 2019.

A. *Federal Reserve Bank of Kansas City* (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198-0001:

1. *Security Bancshares, Inc., Scott City, Kansas*; to engage in community development activities pursuant to section 225.28(b)(12)(i) of Regulation Y.

Board of Governors of the Federal Reserve System, March 5, 2019.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2019-04250 Filed 3-7-19; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[OMB No.: 0970-0389]

Proposed Information Collection Activity; Comment Request

Proposed Project: Tribal Maternal, Infant, and Early Childhood Home Visiting Program Demographic and Service Utilization Data Form.

Title: Tribal Maternal, Infant, and Early Childhood Home Visiting Program Form 1: Demographic and Service Utilization Data.

Description: The Bipartisan Budget Act of 2018 (Pub. L. 115-123). Section 511(h)(2)(A) of Title V of the Social Security Act, created the Maternal, Infant, and Early Childhood Home Visiting Program (MIECHV) and authorized the Secretary of HHS (in Section 511(h)(2)(A)) to award grants to Indian tribes (or a consortium of Indian

tribes), tribal organizations, or urban Indian organizations to conduct an early childhood home visiting program. The legislation set aside 3 percent of the total MIECHV program appropriation for grants to tribal entities. Tribal MIECHV grants, to the greatest extent practicable, are to be consistent with the requirements of the MIECHV grants to states and jurisdictions and include conducting a needs assessment and establishing quantifiable, measurable benchmarks.

The Administration for Children and Families, Office of Child Care, in collaboration with the Health Resources and Services Administration, Maternal and Child Health Bureau, awards grants for the Tribal MIECHV Program. The Tribal MIECHV grant awards support 5-year cooperative agreements to conduct community needs assessments, plan for and implement high-quality, culturally-relevant, evidence-based home visiting programs in at-risk Tribal communities, and participate in research and evaluation activities to build the

knowledge base on home visiting among Native populations.

In Year 1 of the cooperative agreement, grantees must (1) conduct a comprehensive community needs and readiness assessment and (2) develop a plan to respond to identified needs. Following each year that Tribal MIECHV grantees implement home visiting services, they must submit Form 1: Demographic and Service Utilization Data. The Form 1 data are used to help ACF better understand the population receiving services from Tribal MIECHV grantees and the degree to which they are using services, as well as better understanding of the Tribal MIECHV workforce. Overall, this information collection will provide valuable information to HHS that will guide understanding of the Tribal MIECHV Program and the provision of technical assistance to Tribal MIECHV Program grantees.

Respondents: Tribal Maternal, Infant, and Early Childhood Home Visiting Program Grantees.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Tribal MIECHV Form 1	25	1	500	12,500
Estimated Total Annual Burden Hours	12,500

In compliance with the requirements of the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. Chap 35), the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 330 C Street SW, Washington, DC 20201. Attn: ACF Reports Clearance Officer. Email address: infocollection@acf.hhs.gov. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d)

ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Mary B. Jones,
ACF/OPRE Certifying Officer.
[FR Doc. 2019-04266 Filed 3-7-19; 8:45 am]
BILLING CODE 4184-77-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2019-N-0829]

Pediatric Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; establishment of a public docket; request for comments.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming public advisory committee meeting of the Pediatric Advisory Committee (PAC). The general function of the committee is to provide advice and recommendations to FDA on regulatory issues. The meeting will be open to the public. FDA is establishing a docket for public comment on this document.

DATES: The meeting will be held on April 8, 2019, from 9 a.m. to 4:40 p.m.

ADDRESSES: FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993-002. Answers to commonly asked questions including information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: <https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm>.

FDA is establishing a docket for public comment on this meeting. The docket number is FDA-2019-N-0829. The docket will close on April 4, 2019. Submit either electronic or written

comments on this public meeting by April 4, 2019. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before April 4, 2019. The <https://www.regulations.gov> electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of April 4, 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.

Comments received on or before March 25, 2019, will be provided to the committee. Comments received after that date will be taken into consideration by FDA.

You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and

identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All submissions received must include the Docket No. FDA-2019-N-0829 for "Pediatric Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments." Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- **Confidential Submissions**—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." FDA will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify the information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Marieann Brill, Office of the Commissioner, Food and Drug Administration, 10903 New Hampshire

Ave., Bldg. 32, Rm. 5154, Silver Spring, MD 20993, 240-402-3838, email:

marieann.brill@fda.hhs.gov, or FDA Advisory Committee Information Line, 1-800-741-8138 (301-443-0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the FDA's website at <https://www.fda.gov/AdvisoryCommittees/default.htm> and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

SUPPLEMENTARY INFORMATION:

Agenda: On April 8, 2019, the PAC will meet to discuss drug development for testosterone replacement therapy in male adolescents for conditions associated with a deficiency or absence of endogenous testosterone resulting from structural or genetic etiologies ("classic hypogonadism"). The following topics will be considered for discussion: diagnosing male adolescents with classic hypogonadism, evidence to establish efficacy and safety of testosterone replacement therapy in this population, study design, and feasibility considerations for such studies. The committee will not discuss any individual research programs.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its website prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's website after the meeting. Background material is available at <https://www.fda.gov/AdvisoryCommittees/Calendar/default.htm>. Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before April 1, 2019. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed

participants, and an indication of the approximate time requested to make their presentation on or before March 22, 2019. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by March 25, 2019.

Persons attending FDA's advisory committee meetings are advised that FDA is not responsible for providing access to electrical outlets.

For press inquiries, please contact the Office of Media Affairs at fdaoma@fda.hhs.gov or 301-796-4540.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require accommodations due to a disability, please contact Marieann Brill (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our website at <https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm> for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: March 4, 2019.

Lowell J. Schiller,

Acting Associate Commissioner for Policy.

[FR Doc. 2019-04159 Filed 3-7-19; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2011-D-0893]

Agency Information Collection Activities; Proposed Collection; Comment Request; Center for Devices and Radiological Health Appeals Processes

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 information collection associated with the processes available to outside stakeholders to request additional review of decisions or actions by Center for Devices and Radiological Health (CDRH) employees.

DATES: Submit either electronic or written comments on the collection of information by May 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 May 7, 2019. The <https://www.regulations.gov> electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of May 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 in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

Submit written/paper submissions as follows:

- **Mail/Hand delivery/Courier (for written/paper submissions):** Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All submissions received must include the Docket No. FDA-2011-D-0893 for "Center for Devices and Radiological Health Appeals Processes." Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- **Confidential Submissions—**To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://>

www.regulations.gov and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, PRAStaff@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. “Collection of information” is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA’s functions, including whether the information will have practical utility; (2) the accuracy of FDA’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance

the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Center for Devices and Radiological Health Appeals Processes

OMB Control Number 0910–0738—Extension

The guidance document entitled “Guidance for Industry and Food and Drug Administration Staff; Center for Devices and Radiological Health Appeals Processes”¹ describes the processes available to outside stakeholders to request additional review of decisions or actions by CDRH employees. FDA is seeking approval for the reporting burden associated with requests for additional review of decisions and actions by CDRH employees as described in the guidance.

Individuals outside of FDA who disagree with a decision or action taken by CDRH and wish to have it reviewed or reconsidered have several processes for resolution from which to choose, including requests for supervisory review of an action, petitions, and hearings. Of these, by far the most commonly used is a request for supervisory review under § 10.75 (21 CFR 10.75) (“10.75 appeal”). Section 517A of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 360g–1), added by section 603 of the Food and Drug Safety and Innovation Act, includes requirements pertaining to the process and timelines for 10.75 appeals of “significant decisions” regarding 510(k) premarket notifications, applications for premarket approvals (PMAs), and applications for investigational device exemptions (IDEs).

A request for review under § 10.75 should be based on the information that was already present in the administrative file at the time of the decision that is being reviewed as provided in § 10.75(d). Section 517A of the FD&C Act refers to significant decisions regarding the information in the administrative file for premarket notification (section 510(k) of the FD&C Act (21 U.S.C. 360(k))), PMA (section 515 (21 U.S.C. 360e)), and IDE (section 520(g) (21 U.S.C. 360j(g))) submissions that is collected under existing regulations that specify the information manufacturers must submit so that FDA may properly evaluate the safety and effectiveness of medical devices. The information collections associated with these regulations are currently approved by the OMB as follows: The collections of information in 21 CFR part 807, subpart E (premarket notification) have been approved under OMB control number 0910–0120; the collections of information in 21 CFR part 814 (premarket approval) have been approved under OMB control number 0910–0231; and the collections of information in 21 CFR part 812 (investigational device exemption) have been approved under OMB control number 0910–0078.

While CDRH already possesses in the administrative file the information that would form the basis of a decision on a matter under appeal, the submission of particular information regarding the request itself and the data and information relied on by the requestor in the appeal would facilitate timely resolution of the decision under review. The guidance describes the collection of information not expressly specified under existing regulations such as the submission of the request for review, minor clarifications as part of the request, and supporting information.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN¹

	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
CDRH Appeals processes guidance document	35	1	35	8	280

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

¹ <https://www.fda.gov/ucm/groups/fdagov-public/@fdagov-meddev-gen/documents/document/ucm284670.pdf>.

Our estimated burden for the information collection reflects a decrease of 15 responses and a corresponding overall decrease of 120 hours. We attribute this adjustment to a decrease in the number of submissions we received over the last few years.

Dated: March 4, 2019.

Lowell J. Schiller,

Acting Associate Commissioner for Policy.

[FR Doc. 2019-04207 Filed 3-7-19; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2013-D-1543]

Agency Information Collection Activities; Proposed Collection; Comment Request; Proposed Suffix for the Proper Name of a Biological Product

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 and to allow 60 days for public comment in response to the notice. This notice solicits comments on Proposed Suffix for the Proper Name of a Biological Product.

DATES: Submit either electronic or written comments on the collection of information by May 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 May 7, 2019. The <https://www.regulations.gov> electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of May 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-2013-D-1543 for "Agency Information Collection Activities; Proposed Collection; Comment Request; Proposed Suffix for the Proper Name of a Biological Product." 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, PRStaff@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501-3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA’s functions, including whether the information will have practical utility; (2) the accuracy of FDA’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Proposed Suffix for the Proper Name of a Biological Product

OMB Control Number 0910—New

The final guidance for industry, “Nonproprietary Naming of Biological Products,” proposes a new collection of information by recommending that applicants propose a suffix composed of four lowercase letters to be included in the “proper name.” The “proper name” is designated by FDA at the time of licensure for biological products submitted under section 351(a) of the Public Health Service Act (PHS Act) (42 U.S.C. 262(a)) and for biosimilar products and interchangeable products submitted under section 351(k) of the

PHS Act. The guidance recommends an applicant submit up to 10 proposed suffixes and include any analyses of how the proposed suffixes meet the factors described in the final guidance for industry. FDA’s evaluation will generally occur during the investigational new drug application phase and will also be incorporated into the review of the marketing application.

FDA previously published a 60-day notice in the **Federal Register** of August 28, 2015 (80 FR 52296), and a 30-day notice in the **Federal Register** of January 13, 2017 (82 FR 4345), on this proposed collection of information. OMB did not reach a decision on this collection of information, withdrawing it on July 3, 2018. Consistent with the revisions proposed in the draft guidance, entitled “Nonproprietary Naming of Biological Products—Update,” FDA is re-initiating the notice and comment process for this collection of information, beginning with this 60-day notice.

Published elsewhere in this issue of the **Federal Register**, FDA is announcing the availability of a draft guidance for industry entitled “Nonproprietary Naming of Biological Products: Update.” This draft guidance proposes to amend the final guidance, “Nonproprietary Naming of Biological Products.” The draft guidance describes, among other things, FDA’s current thinking on nonproprietary (proper) names of biological products licensed under section 351 of the PHS Act that do not include an FDA-designated

suffix. Specifically, the proper names of these products need not be revised in order to accomplish the objectives of the naming convention described in the final guidance for industry, “Nonproprietary Naming of Biological Products,” dated January 2017. This draft guidance is not intended to be finalized. Based on the comments received on this draft guidance, FDA intends to revise the final guidance, “Nonproprietary Naming of Biological Products,” dated January 2017, and to amend sections, such as sections IV.D and V.B in that document, regarding the subjects addressed in this draft guidance.

Consistent with the Draft Guidance, FDA proposes to gather the same type of information contemplated by the withdrawn information collection request (80 FR 52269 and 82 FR 4345). Due to the revisions proposed in the draft guidance, however, FDA anticipates that the number of respondents will be reduced, and FDA has re-estimated the burden of the collection of information accordingly. The proposed collection of information described in this notice is a new collection of information only and does not include a modification of an existing collection of information as previously recommended as part of the 60-day (80 FR 52296) and 30-day (82 FR 4345) notices of the **Federal Register**.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN ¹

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Information for the Proposed Proper Name for Applicable Biological Products Submitted Under Section 351(a) of the PHS Act	15	1	15	420	6,300
Information for the Proposed Proper Name for Applicable Biological Products Submitted Under Section 351(k) of the PHS Act	9	1	9	420	3,780
Total					10,080

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

As indicated in table 1 above, we estimate that we will receive a total of approximately 15 requests annually for the proposed “proper name” for biological products submitted under section 351(a) of the PHS Act and 9 requests annually for the proposed “proper name” for biosimilar products and interchangeable products submitted under section 351(k) of the PHS Act. The estimated total annual responses are based on data from user fee rates for

fiscal year 2019. The number of responses per respondent has been updated to reflect FDA’s most recent information on the number of applications that are expected to be submitted under 351 of the PHS Act to the Agency annually. The average burden per response (hours) is based on FDA’s consideration of comments received in response to the 60-day and 30-day notices requesting public comment on the withdrawn information

collection request associated with the final guidance (80 FR 52269 and 82 FR 4345).

Dated: March 4, 2019.

Lowell J. Schiller,

Acting Associate Commissioner for Policy.

[FR Doc. 2019–04241 Filed 3–7–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2013-D-1543]

Nonproprietary Naming of Biological Products: Update; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is announcing the availability of a draft guidance for industry entitled “Nonproprietary Naming of Biological Products: Update.” This draft guidance describes FDA’s current thinking on nonproprietary names of biological products licensed under the Public Health Service Act (PHS Act) that do not include an FDA-designated suffix. Specifically, the nonproprietary names of these products need not be revised to accomplish the objectives of the naming convention described in the final guidance for industry, “Nonproprietary Naming of Biological Products,” dated January 2017. Similarly, FDA does not intend to apply the naming convention described in the final guidance for industry, “Nonproprietary Naming of Biological Products,” to biological products that are the subject of an approved application under the Federal Food, Drug, and Cosmetic Act (FD&C Act) as of March 23, 2020, when such an application is deemed to be a biologics license application (BLA) under the PHS Act (transition biological products). FDA is also reconsidering whether vaccines should be within the scope of the naming convention. In addition, the draft guidance describes FDA’s current thinking on the appropriate suffix format for the nonproprietary name of an interchangeable biological product licensed under the PHS Act. Based on the comments received in the docket, we intend to revise the final guidance, “Nonproprietary Naming of Biological Products,” dated January 2017 and to amend sections in that document regarding the subjects addressed in this draft guidance.

DATES: Submit either electronic or written comments on the draft guidance by May 7, 2019 to ensure that the Agency considers your comment on this draft guidance before it begins work on the revisions of 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-2013-D-1543 for “Nonproprietary Naming of Biological Products: Update.” Received comments will be placed in the docket and, except for those submitted as “Confidential Submissions,” publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- **Confidential Submissions—**To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states

“THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.” The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as “confidential.” Any information marked as “confidential” will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA’s posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993-0002 or the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993-0002. 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: Sandra Benton, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 6522, Silver Spring, MD 20993-0002, 301-796-1042; 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 “Nonproprietary Naming of Biological Products: Update.” This draft guidance describes FDA’s current thinking on nonproprietary names of biological products licensed under section 351 of the PHS Act (42 U.S.C. 262) that do not include an FDA-designated suffix. Specifically, the nonproprietary names of these products need not be revised in order to accomplish the objectives of the naming convention described in the final guidance for industry, “Nonproprietary Naming of Biological Products” (Naming Guidance). Similarly, FDA does not intend to apply the naming convention described in the Naming Guidance to biological products that are the subject of an approved application under section 505 of the FD&C Act (21 U.S.C. 355) as of March 23, 2020, when such an application is deemed to be a BLA under section 351 of the PHS Act (section 7002(e)(4) of the Biologics Price Competition and Innovation Act of 2009) (transition biological products). FDA is also reconsidering whether vaccines should be within the scope of the naming convention.

In addition, this draft guidance describes FDA’s current thinking on the appropriate suffix format for the nonproprietary name of an interchangeable biological product licensed under section 351(k) of the PHS Act. For each interchangeable product, FDA intends to designate a nonproprietary name that is a combination of the core name and a distinguishing suffix that is devoid of meaning and composed of four lowercase letters.

In the **Federal Register** of August 28, 2015 (80 FR 52296), FDA announced the availability of a draft guidance, “Nonproprietary Naming of Biological Products,” dated August 2015. In this notice, FDA solicited comments on several issues, including questions related to the application of the naming convention to previously licensed biological products (that is, biological products that are licensed without an FDA-designated suffix in their proper names); and the format of the suffix assigned to interchangeable products. The 2015 draft guidance specifically sought comment on whether the nonproprietary name for an interchangeable product should include a unique, distinguishing suffix, or

should share the same suffix as its reference product.

FDA announced the availability of the final guidance dated January 2017 in the **Federal Register** of January 13, 2017 (82 FR 4345). The final guidance explained that the Agency was still considering the process to implement this naming convention for previously licensed biological products and for transition biological products, as well as the appropriate suffix format for interchangeable products.

FDA reviewed the comments received for both the draft and final versions of the guidance. FDA received comments indicating that revising the nonproprietary names of a large number of products licensed without an FDA-designated suffix in their proper names would create a substantial burden for healthcare systems, could cause disruption for product inventory, and could cause confusion for healthcare providers and patients, as the nonproprietary names of drugs seldom change postapproval. FDA considered these and other comments and, for reasons including those just described, does not intend to apply the naming convention to biological products licensed under the PHS Act without an FDA-designated suffix in their proper names. For similar reasons, FDA does not intend to apply the naming convention to transition biological products.

FDA’s current thinking is that the objectives of the naming convention described in the Naming Guidance can be accomplished without revising the nonproprietary names of: (1) Biological products licensed under section 351 of the PHS Act without an FDA-designated suffix in their proper names or (2) transition biological products. In addition, only applying the naming convention prospectively is expected to reduce burden. Commenters have expressed concerns that modifications to patient recordkeeping systems, inventory systems, and other databases would be necessary to accommodate changes to the nonproprietary names of previously licensed products. Not applying the naming convention to biological products that were licensed without an FDA-designated suffix in their proper names nor to transition biological products avoids the potential burden on various stakeholders of changing the proper names of a large number of biological products.

Vaccines are currently within the scope of the naming convention described in the Naming Guidance. However, as stated in the draft guidance, FDA is reconsidering that approach and is evaluating whether the

currently available identification systems associated with the administration of vaccines are sufficiently robust to ensure safe dispensing practices and optimal pharmacovigilance without requiring distinguishable proper names.

In addition, this draft guidance explains FDA’s current thinking on the appropriate format of the suffix included in the nonproprietary name of interchangeable products. FDA’s current thinking is that a suffix included in the nonproprietary name of an interchangeable product should, as with other biological products within the scope of the guidance, be a unique, distinguishing suffix. FDA believes a unique, distinguishing suffix is necessary to achieve adequate pharmacovigilance for interchangeable products.

This draft guidance is being issued consistent with FDA’s good guidance practices regulation (21 CFR 10.115). Based on the comments received in the docket, we intend to revise the final guidance for industry, “Nonproprietary Naming of Biological Products” dated January 2017, and to amend sections, such as sections IV.D and V.B, in that document regarding the subjects addressed in this draft guidance. This draft guidance is not intended to be finalized as a separate guidance document. When revised, the guidance will represent the current thinking of FDA on “Nonproprietary Naming of 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.

FDA invites comments on the draft guidance, as well as general comments on how the Agency may implement the naming convention described in the Naming Guidance in a manner that is fair and consistent while also promoting the specific objectives described in the Naming Guidance and avoiding unnecessary burden. For example, FDA invites comments regarding the implications of providing the same or a different suffix for the same drug substance that is submitted by the same sponsor for multiple strengths, dosage forms, or presentations in the same BLA, in a supplement to an approved BLA, or in a different BLA. FDA also invites comments on the application of the naming convention to vaccine products.

II. Paperwork Reduction Act of 1995

This draft guidance describes information collection provisions 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). In particular, the draft guidance refers to a new collection of information described in the final guidance, “Nonproprietary Naming of Biological Products,” recommending that applicants propose a suffix composed of four lowercase letters to be included in the proper name. The proper name is designated by FDA at the time of licensure for biological products submitted under section 351(a) of the PHS Act and for biosimilar products and interchangeable products submitted under section 351(k) of the PHS Act. FDA is soliciting public comment, in a separate document published elsewhere in this issue of the **Federal Register** (see “Agency Information Collection Activities; Proposed Collection; Comment Request; Proposed Suffix for the Proper Name of a Biological Product”) on the information collection associated with the guidance, “Nonproprietary Naming of Biological Products.” FDA will also seek OMB approval for the information collection.

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/default.htm>, or <https://www.regulations.gov>.

Dated: March 4, 2019.

Lowell J. Schiller,

Acting Associate Commissioner for Policy.

[FR Doc. 2019-04242 Filed 3-7-19; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH and HUMAN SERVICES

Indian Health Service

Indian Health Professions Preparatory, Indian Health Professions Pre-Graduate and Indian Health Professions Scholarship Programs

Announcement Type: INITIAL

CFDA Numbers: 93.971, 93.123, and 93.972

Key Dates

Application Deadline Date: March 15, 2019, 7:00 p.m. Eastern for continuing students

Application Deadline Date: March 28, 2019, 7:00 p.m. Eastern for new students

Application Review Date: May 6–24, 2019

Continuation Award Notification

Deadline Date: June 5, 2019

New Award Notification Deadline Date: July 15, 2019

Award Start Date: August 1, 2019

Acceptance/Decline of Awards Deadline Date: August 15, 2019

I. Funding Opportunity Description

The Indian Health Service (IHS) is committed to encouraging American Indians and Alaska Natives to enter the health professions and to assuring the availability of Indian health professionals to serve Indians. The IHS is committed to the recruitment of students for the following programs:

- The Indian Health Professions Preparatory Scholarship (Preparatory Scholarship) authorized by Section 103 of the Indian Health Care Improvement Act, Public Law 94-437 (1976), as amended (IHCIA), codified at 25 U.S.C. 1613(b)(1).
- The Indian Health Professions Pre-graduate Scholarship (Pre-graduate Scholarship) authorized by Section 103 of the IHCIA, codified at 25 U.S.C. 1613(b)(2).
- The Indian Health Professions Scholarship (Health Professions Scholarship) authorized by Section 104 of the IHCIA, codified at 25 U.S.C. 1613a.

Full-time and part-time scholarships will be funded for each of the three scholarship programs. The scholarship award selections and funding are subject to availability of funds.

II. Award Information

Type of Award

Scholarship.

Estimated Funds Available

An estimated \$13.7 million will be available for fiscal year (FY) 2019 awards. The IHS Scholarship Program (IHSSP) anticipates, but cannot guarantee, student scholarship selections from any or all of the approved disciplines in the Preparatory Scholarship, Pre-graduate Scholarship, and Health Professions Scholarship programs for the scholarship period 2019–2020 academic year. Due to the rising cost of education and the decreasing number of scholars who can be funded by the IHSSP, the IHSSP

previously changed the funding policy for Preparatory Scholarship and Pre-graduate Scholarship awards and reallocated a greater percentage of its funding in an effort to increase the number of Health Professions Scholarship, and inherently the number of service-obligated scholars, to better meet the health care needs of the IHS and its Tribal and Urban Indian health care system partners. This policy continues in effect for 2019–2020 academic year.

Anticipated Number of Awards

Approximately 25 new awards will be made by the IHSSP under the Preparatory Scholarship and Pre-graduate Scholarship programs for Indians. The awards are for 10 months in duration, with an additional 2 months for approved summer school requests, and will cover both tuition and fees and other related costs (ORC). Approximately 25 new awards will be made by the IHSSP under the Preparatory Scholarship and Pre-graduate Scholarship programs for Indians. The awards are for 12 months in duration and will cover both tuition and fees and ORC. The average award to a full-time student is approximately \$120,814.38.

Project Period

The project period for the Preparatory Scholarship stipend support, tuition, fees and ORC is limited to 2 years for full-time students and the part-time equivalent of 2 years, not to exceed 4 years for part-time students. The project period for the Pre-graduate Scholarship stipend support, tuition, fees and ORC is limited to 4 years for full-time students and the part-time equivalent of 4 years, not to exceed 8 years for part-time students. The Health Professions Scholarship provides stipend support, tuition, fees, and ORC and is limited to 4 years for full-time students and the part-time equivalent of 4 years, not to exceed 8 years for part-time students.

III. Eligibility Information

This is a limited competition announcement. New and continuation scholarship awards are limited to “Indians” as defined at 25 U.S.C. Section 1603(13). NOTE: The definition of “Indians” for Section 103 Preparatory Scholarship and Pre-graduate Scholarship is broader than the definition of “Indians” for the Section 104 Health Professions Scholarship, as specified below. Continuation awards are non-competitive.

1. Eligibility

The Health Professions Preparatory Scholarship awards are made to American Indians (members of Federally recognized Tribes, including those from Tribes terminated since 1940, first and second degree descendants of members of federally recognized Tribes, members of State-recognized Tribes and first and second degree descendants of members of State-recognized Tribes), or Eskimo, Aleut, and other Alaska Natives who:

- Have successfully completed high school education or high school equivalency; and
- Have been accepted for enrollment in a compensatory, pre-professional general education course or curriculum.

The Health Professions Pre-graduate Scholarship awards are made to American Indians (members of Federally recognized Tribes, including those from Tribes terminated since 1940, first and second degree descendants of members of federally recognized Tribes, members of State recognized Tribes, and first and second degree descendants of members of State-recognized Tribes), or Eskimo, Aleut, or other Alaska Natives who:

- Have successfully completed high school education or high school equivalency; and
- Have been accepted for enrollment or are enrolled in an accredited pre-graduate program leading to a

baccalaureate degree in pre-medicine, pre-dentistry, pre-optometry or pre-podiatry.

The Indian Health Professions Scholarship may only be awarded to an individual who is a member of a federally recognized Indian Tribe, Eskimo, Aleut, or other Alaska Native as provided by Section 1603(13) of the IHCA. Membership in a Tribe recognized only by a State does not meet this statutory requirement. To receive an Indian Health Professions Scholarship, an otherwise eligible individual must be enrolled in an appropriately accredited school and pursuing a course of study in an eligible profession.

2. Cost Sharing/Matching

The IHS does not require matching funds or cost sharing for grants or cooperative agreements.

3. Benefits From State, Local, Tribal and Other Federal Sources

Awardees of the Preparatory Scholarship, Pre-graduate Scholarship, or Health Professions Scholarship, who accept outside funding from other scholarship, grant, and fee waiver programs, will have these monies applied to their student account tuition and fees charges at the college or university they are attending, before the IHSSP will pay any of the remaining balance, unless said outside scholarship, grant, or fee waiver award

letter specifically excludes use for tuition and fees. These outside funding sources must be reported on the student's invoicing documents submitted by the college or university they are attending. Student loans and Veterans Administration (VA)/G.I. Bill benefits accepted by Health Professions Scholarship recipients will have no effect on the IHSSP payment made to their college or university.

IV. Application Submission Information

1. Electronic Application System and Application Handbook Instructions and Forms

Applicants must go online to: www.ihs.gov/scholarship/online_application/index.cfm to apply for an IHS scholarship and access the Application Handbook instructions and forms for submitting a properly completed application for review and funding consideration. Applicants are strongly encouraged to seek consultation from their Area Scholarship Coordinator (ASC) in preparing their scholarship application for award consideration. The ASCs are listed on the IHS website at: <http://www.ihs.gov/scholarship/contact/areascholarshipcoordinators/>. This information is listed below. Please review the following list to identify the appropriate IHS ASC for your State.

IHS Area office and states/locality served	Scholarship coordinator address
Great Plains Area IHS: Nebraska, Iowa, North Dakota, South Dakota	Mr. Matthew Martin, IHS Area Scholarship Coordinator, Great Plains Area IHS, 115 Fourth Avenue SE, Aberdeen, SD 57401, Tel: (605) 226-7502.
Alaska Area Native Health Services: Alaska	Ms. Jennifer Fielder, IHS Area Scholarship Coordinator, Alaska Area Native Health, 3900 Ambassador Drive, Anchorage, AK 99508, Tel: (907) 729-1387.
Albuquerque Area IHS: Colorado, New Mexico	Ms. Jeanette Garcia, IHS Area Scholarship Coordinator, Albuquerque Area IHS, 4101 Indian School Rd. NE, Suite 225, Albuquerque, NM 87110, Tel: (505) 256-6729.
Bemidji Area IHS: Illinois, Indiana, Michigan, Minnesota, Wisconsin	Mr. Tony Buckanaga, IHS Area Scholarship Coordinator, Bemidji Area IHS, 522 Minnesota Avenue NW, Room 115A, Bemidji, MN 56601, Tel: (218) 444-0486, (800) 892-3079 (toll free).
Billings Area IHS: Montana, Wyoming	Mr. Brett Miller, IHS Area Scholarship Coordinator, Billings Area IHS, Area Personnel Office, P.O. Box 36600, 2900 Fourth Avenue North, Suite 400, Billings, MT 59107, Tel: (406) 247-7211.
California Area IHS: California	Mr. Sergio Islas, IHS Area Scholarship Coordinator, California Area IHS, 650 Capitol Mall, Suite 7-100, Sacramento, CA 95814, Tel: (916) 930-3983 ext. 724.
Nashville Area IHS: Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, District of Columbia. Navajo Area IHS:	Mr. Nicholas Mayo, IHS Area Scholarship Coordinator, Nashville Area IHS, 711 Stewarts Ferry Pike, Nashville, TN 37214, Tel: (615) 467-1711.

IHS Area office and states/locality served	Scholarship coordinator address
Arizona, New Mexico, Utah	Ms. Aletha John, IHS Area Scholarship Coordinator, Navajo Area IHS, P.O. Box 9020, Window Rock, AZ 86515, Tel: (928) 871-1360.
Oklahoma City Area IHS: Kansas, Missouri, Oklahoma, Texas	Mr. Keith Bohanan, IHS Area Scholarship Coordinator, Oklahoma City Area IHS, 701 Market Drive, Oklahoma City, OK 73114, Tel: (405) 951-3789, (800) 722-3357 (toll free).
Phoenix Area IHS: Arizona, Nevada, Utah	Ms. Stephanie Qa'havi, IHS Area Scholarship Coordinator, Phoenix Area IHS, Southwest Region Human Resources, 40 North Central Avenue, Suite 510, Phoenix, AZ 85004, Tel: (602) 364-5225.
Portland Area IHS: Idaho, Oregon, Washington	Ms. Heidi Hulseley, IHS Area Scholarship Coordinator, Portland Area IHS, 1414 NW Northrup Street, Suite 800, Portland, OR 97209, Tel: (503) 414-7745.
Tucson Area IHS: Arizona	Ms. Stephanie Qa'havi, (See Phoenix Area).

2. Content and Form Submission

Each applicant will be responsible for entering their basic applicant account information online, in addition to submitting required documents as requested, in accordance with the IHS Scholarship Program Application Handbook instructions, to the: IHS Scholarship Program Branch Office, 5600 Fishers Lane, Mail Stop: OHR (11E53A), Rockville, Maryland, 20857. Applicants must initiate an application through the online portal or the application will be considered incomplete. For more information on how to use the online portal, go to www.ihs.gov/scholarship. The portal will open on December 15, 2018. For new applicants, an initial review process for scoring will be performed. The initial review process requires a completed online application and official transcript(s) to determine a rating score. An application will be rated on narrative, faculty evaluations, and official transcript(s). The following documents must be submitted by March 28, 2018, 7:00 p.m. Eastern:

- A completed online application.
- Official transcript(s) that indicate a minimum of 24 credit hours of college coursework to be completed by June 1, 2019. Official transcripts (s) must be provided from every college/university attended within the past 7 years.
- Cumulative Grade Point Average (GPA): Calculated by the applicant and indicated on the application.
- Two Faculty/Employer Evaluations with faculty evaluators identified, evaluations transmitted and completed in the online applicant portal.
- Online narratives-reasons for requesting the scholarship.
- Delinquent Debt form completed in the online applicant portal.
- Course Curriculum Form completed in the online applicant portal.

The Initial Review Process should be completed by the first week in June and

scores will be provided for the Selection Process.

The Selection Process will be initiated after the rating scores are provided. The Selection Process will be completed by the second week in June to determine potential awardees. Non-selected applicants will be notified by mail by the end of June. Selected applicants will be notified by mail to submit the following documents within 30 days of notification:

- Current Letter of Acceptance from a college/university or proof of application to a college/university or health professions program.
- Applicant's Documents for Indian Eligibility.

If you are a member of a federally recognized Tribe or Alaska Native (recognized by the Secretary of the Interior), provide evidence of

A. Certification of Tribal enrollment by the Secretary of the Interior, acting through the Bureau of Indian Affairs (BIA) Certification: Form 4432—Category A or D, (whichever is applicable).

Note: If you meet the criteria of Form 4432—Category B or C, you are eligible only for the Preparatory or Pre-graduate Scholarships, which have eligibility criteria as follows in Section B.

B. For Preparatory Scholarship or Pre-graduate Scholarship, only: If you are a member of a Tribe terminated since 1940 or a State-recognized Tribe and first or second degree descendant, provide official documentation that you meet the requirements of Tribal membership as prescribed by the charter, articles of incorporation or other legal instrument of the Tribe and have been officially designated as a Tribal member as evidenced by an accompanying document signed by an authorized Tribal official; or other evidence, satisfactory to the Secretary of the Interior, that you are a member of the Tribe. In addition, if the terminated or State-recognized Tribe of which you

are a member is not on a list of such Tribes published by the Secretary of the Interior in the **Federal Register**, you must submit an official signed document that the Tribe has been terminated since 1940 or is recognized by the State in which the Tribe is located in accordance with the law of that State.

C. For Preparatory Scholarship or Pre-graduate Scholarship, only: If you are not a Tribal member, but are a natural child or grandchild of a Tribal member you must submit: (1) Evidence of that fact, e.g., your birth certificate and/or your parent's/grandparent's birth/death certificate showing the name of the Tribal member; and (2) evidence of your parent's or grandparent's Tribal membership in accordance with paragraphs A and B. The relationship to the Tribal member must be clearly documented. Failure to submit the required documentation will result in the application not being accepted for review.

- Curriculum for Major.
- Declaration of Federal Employment—OMB Form 3206-0162.
- Addendum OF 306 Form—OMB Form 0917-0028.

3. Submission Dates

Application Receipt Date: The online continuation application submission deadline for continuation applicants is March 15, 2019, 7:00 p.m. Eastern. No supporting documents will be accepted after this postal date, except final Letters of Acceptance, which must be submitted no later than postal date, May 31, 2019.

Application Receipt Date: The online application submission deadline for new applicants is, March 28, 2019, 7:00 p.m. Eastern and mail official transcript(s) by the postal deadline of March 28, 2019.

The online application and official transcript(s) shall be considered as

meeting the deadline if they are received by the IHSSP branch office, postmarked on or before the deadline date. Applicants should request a legibly dated U.S. Postal Service postmark. Private metered postmarks will not be acceptable as proof of timely mailing and the application will not be considered for funding. Receipts of any kind will not be accepted as proof in meeting the postal deadline.

New and continuation applicants may check the status of their application receipt and processing by logging into their online account at: https://www.ihs.gov/scholarship/online_application/index.cfm. Applications received with postmarks after the announced deadline date will not be considered for funding.

4. Intergovernmental Review

Executive Order 12372 requiring intergovernmental review is not applicable to this program.

5. Funding Restrictions

No more than five percent of available funds will be used for part-time scholarships this fiscal year. Students are considered part-time if they are enrolled for a minimum of six hours of instruction and are not considered in full-time status by their college/university. Documentation must be received from part-time applicants that their school and course curriculum allows less than full-time status. Both part-time and full-time scholarship awards will be made in accordance with the authorizing statutes at 25 U.S.C. 1613 and 1613a and the regulations at 42 CFR part 136 subpart J, subdivisions J-3, J-4, and J-8 and this information will be published in all IHSSP Application and Student Handbooks as they pertain to the IHSSP.

6. Other Submissions Requirements

New and continuation applicants are responsible for using the online application system. See section 3. Submission Dates for application deadlines.

V. Application Review Information

1. Criteria

Applications will be reviewed and scored with the following criteria.

- Academic Performance (40 Points)

Applicants are rated according to their academic performance as evidenced by transcripts and faculty evaluations. In cases where a particular applicant's school has a policy not to rank students academically, faculty members are asked to provide a personal judgment of the applicant's

achievement. Preparatory, Pre-graduate and Health Professions applicants with a cumulative GPA below 2.0 are not eligible for award.

- Faculty/Employer Recommendations (30 Points)

Applicants are rated according to evaluations by faculty members, current and/or former employers and Tribal officials regarding the applicant's potential in the chosen health related professions.

- Stated Reasons for Asking for the Scholarship and Stated Career Goals Related to the Needs of the IHS (30 Points)

Applicants must provide a brief written explanation of reasons for asking for the scholarship and of their career goals. Applicants are considered for scholarship awards based on their desired career goals and how these goals relate to current Indian health personnel needs.

The applicant's narrative will be judged on how well it is written and its content.

Applications for each health career category are reviewed and ranked separately.

- Applicants who are closest to graduation or completion of training are awarded first. For example, senior and junior applicants under the Pre-graduate Scholarship receive funding before freshmen and sophomores.

- Priority Categories

The following is a list of health professions that will be considered for funding in each scholarship program in FY 2019.

- Preparatory Scholarship is limited to senior and junior students pursuing the following degrees.
 - A. Pre-Clinical Psychology.
 - B. Pre-Nursing.
 - C. Pre-Pharmacy.
 - D. Pre-Social Work (Juniors and Seniors preparing for an Master of Science in social work).
- Pre-graduate Scholarship is limited to junior year and above students pursuing the following degrees.
 - A. Pre-Dentistry.
 - B. Pre-Medicine.
 - C. Pre-Optometry.
 - D. Pre-Podiatry.
- Health Professions Scholarship.
 - A. Medicine—Allopathic and Osteopathic doctorate degrees.
 - B. Nursing—Bachelor of Science (BSN). Priority consideration will be given to Registered Nurses employed by the IHS; in a program conducted under a contract or compact entered into under the

Indian Self-Determination and Education Assistance Act (Pub. L. 93-638) and its amendments; or in a program assisted under Title V of the IHCIA.

- C. Nursing (NP, DNP)—Nurse Practitioner/Advanced Practice Nurse in Family Practice, Psychiatry, Geriatric, Women's Health, Pediatric Nursing.
- D. Nursing—Certified Nurse Midwife (CNM).
- E. Certified Registered Nurse Anesthetist (CRNA).
- F. Physician Assistant (certified).
- G. Dentistry—DDS or DMD degree.
- H. Social Work—Master's degree.
- I. Chemical Dependency Counseling—Master's degree.
- J. Clinical Psychology—Ph.D. or PsyD.
- K. Counseling Psychology—Ph.D.
- L. Optometry—OD.
- M. Pharmacy—PharmD.
- N. Podiatry—DPM.
- O. Physical Therapy—MS or DPT.
- P. Environmental Engineering—BS (Jr. and Sr. undergraduate years only).
- Q. Environmental Health/Sanitarian—BS (Jr. and Sr. undergraduate years only).

2. Review and Selection Process

The applications will be reviewed and scored by the IHSSP Application Review Committee appointed by the IHS. Reviewers will not be allowed to review an application from their area or their own Tribe. Each application will be reviewed by three reviewers. The average score of the three reviews provides the final ranking score for each applicant. To determine the ranking of each applicant, these scores are sorted from the highest to the lowest within each scholarship health discipline by date of graduation and score. If several students have the same date of graduation and score within the same discipline, the computer will randomly sort the ranking list and will not sort by alphabetical name. Selections are then made from the top of each ranking list to the extent that funds allocated by the IHS among the three scholarships are available for obligation.

VI. Award Administration Information

1. Award Notices

It is anticipated that recipients applying for extension of their scholarship funding will be notified in writing during the second week of June 2019 and new applicants will be notified in writing during the second week of July 2019. An Award Letter will be issued to successful applicants. Unsuccessful applicants will be notified in writing and provided an IHS official

contact name if more information is desired.

2. Administrative and National Policy Requirements

Regulations at 42 CFR 136.304 provide that the IHS shall, from time to time, publish a list of allied health professions eligible for consideration for the award of the Preparatory Scholarship, Pre-graduate Scholarship, and Health Professions Scholarship. Section 104(b)(1) of the IHClA, 25 U.S.C. 1613a(b)(1), authorizes the IHS to determine the distribution of scholarships among the health professions.

Awards for the Health Professions Scholarship will be made in accordance with the IHClA, 25 U.S.C. 1613a and 42 CFR §§ 136.330–136.334. Awardees shall incur a service obligation prescribed under the IHClA, Section 1613a(b), shall be met by service, through full-time clinical practice (as detailed on page 18 of the IHSSP Service Commitment Handbook at: http://www.ihs.gov/scholarship/handbooks/service_commitment_handbook.pdf;

(1) In the IHS;

(2) In a program conducted under a contract or compact entered into under the Indian Self-Determination and Education Assistance Act (Pub. L. 93–638) and its amendments;

(3) In a program assisted under Title V of the Indian Health Care Improvement Act (Pub. L. 94–437) and its amendments; or

(4) In a private practice option of his or her profession if the practice (a) is situated in a health professional shortage area, designated in regulations promulgated by the Secretary of Health and Human Services (Secretary) and (b) addresses the health care needs of a substantial number (75 percent of the total served) of Indians as determined by the Secretary in accordance with guidelines of the Service.

Pursuant to the IHClA Section 1613a(b)(3)(C), an awardee of a Health Professions Scholarship may, at the election of the awardee, meet his or her service obligation prescribed under IHClA Section 1613a(b) by a program specified in options (1)–(4) above that:

(i) Is located on the reservation of the Tribe in which the awardee is enrolled; or

(ii) Serves the Tribe in which the awardee is enrolled, if there is an open vacancy available in the discipline for which the awardee was funded under the Health Professions Scholarship during the required 90-day placement period.

In summary, all awardees of the Indian Health Professions Scholarship are reminded that acceptance of this scholarship will result in a service obligation required by both statute and contract, that must be performed, through full-time clinical practice, at an approved service payback facility. The IHS Director (Director) reserves the right to make final decisions regarding assignment of scholarship recipients to fulfill their service obligation.

Moreover, the Director has the authority to make the final determination, designating a facility, whether managed and operated by the IHS, or one of its Tribal or Urban Indian partners, consistent with IHClA, as approved for scholar-obligated service payback.

3. Reporting Requirements

Scholarship Program Minimum Academic Requirements

It is the policy of the IHS that a scholarship awardee funded under the Health Professions Scholarship Program of the IHClA must maintain a 2.0 cumulative GPA, remain in good academic standing each semester/trimester/quarter, maintain full-time student status (institutional definition of “minimum hours” constituting full-time enrollment applies) or part-time student status (institutional definition of “minimum and maximum” hours constituting part-time enrollment applies) for the entire academic year, as indicated on the scholarship application submitted for that academic year. The Health Professions Scholarship awardee may not change his or her enrollment status between terms of enrollment during the same academic year unless approved in advance by the Branch Chief of Scholarships. New recipients may not request a leave of absence the first academic year. All requests for leave of absence are to be approved in advance by the Director, Division of Health Professions Support.

An awardee of a scholarship under the Preparatory Scholarship and Pre-graduate Scholarship authority must maintain a 2.0 cumulative GPA, remain in good standing each semester/trimester/quarter and be a full-time student (institutional definition of “minimum hours” constituting full-time enrollment applies, typically 12 credit hours per semester) or a part-time student (institutional definition of “minimum and maximum” hours constituting part-time enrollment applies, typically 6–11 credit hours). The Preparatory Scholarship and Pre-graduate Scholarship awardee may not change from part-time status to full-time

status or vice versa in the same academic year unless approved in advance by the Branch Chief of Scholarships. New recipients may not request a leave of absence the first academic year.

The following reports must be sent to the IHSSP at the identified time frame. Each scholarship awardee will have access to online Student and Service Commitment Handbooks and required program forms and instructions on when, how, and to whom these must be submitted, by logging into the IHSSP website at www.ihs.gov/scholarship. If a scholarship awardee fails to submit these forms and reports as required, they will be ineligible for continuation of scholarship support and scholarship award payments will be discontinued.

A. Recipient’s and Initial Progress Report

Within thirty days from the beginning of each semester/trimester/quarter, scholarship awardees must submit a Recipient’s Initial Program Progress Report (Form IHS–856–8), found on the IHS Scholarship Program website at: <http://www.ihs.gov/scholarship/programresources/studentforms/>.

B. Transcripts

Within thirty days from the end of each academic period, *i.e.*, semester/trimester/quarter, or summer session, scholarship awardees must submit an Official Transcript showing the results of the classes taken during that period.

C. Notification of Academic Problem

If at any time during the semester/trimester/quarter, scholarship awardees are advised to reduce the number of credit hours for which they are enrolled below the minimum of the 12 (or the number of hours considered by their school as full-time) for a full-time student or at least 6 hours for part-time students, or if they experience academic problems, they must submit this report (Form IHS–856–9), found on the IHS Scholarship Program website at: www.ihs.gov/scholarship/programresources/studentforms/.

D. Change of Status

• Change of Academic Status

Scholarship awardees must immediately notify their Scholarship Program Analyst if they are placed on academic probation, dismissed from school, or voluntarily withdraw for any reason (personal or medical).

• Change of Health Discipline

Scholarship awardees may not change from the approved IHSSP health discipline during the school year. If an

unapproved change is made, scholarship payments will be discontinued.

- Change in Graduation Date

Any time that a change occurs in a scholarship awardee's expected graduation date, they must notify their Scholarship Program Analyst immediately in writing. Justification must be attached from the school advisor. Approvals must be made by the Branch Chief of Scholarships.

VII. Agency Contacts

1. Questions on the application process may be directed to the appropriate IHS Area Scholarship Coordinator.

2. Questions on other programmatic matters may be addressed to: Ms. Reta Brewer, Chief, Scholarship Program, 5600 Fishers Lane, Mail Stop: OHR (11E53A), Rockville, Maryland 20857, Telephone: (301) 443-6197 (This is not a toll-free number).

3. Questions on payment information may be directed to: Mr. Craig Boswell, Grants Scholarship Coordinator, Division of Grants Management, Indian Health Service, 5600 Fishers Lane, Mail Stop: (09E65A), Rockville, Maryland 20857, Telephone: (301) 443-0056 (This is not a toll-free number).

VIII. Other Information

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of *Healthy People 2020*, a PHS-led activity for setting priority areas. This program announcement is related to the priority area of Education and Community-Based Programs. Potential applicants may download a copy of *Healthy People 2020* from <http://www.healthypeople.gov>.

Interested individuals are reminded that the list of eligible IHSSP health and allied professions is effective for applicants for the 2019-2020 academic year. These priorities will remain in effect until superseded. Applicants who apply for health career categories not listed as a priorities during the current scholarship cycle will not be considered for a scholarship award.

Chris Buchanan,

Assistant Surgeon General, U.S. Public Health Service, Deputy Director, Indian Health Service.

[FR Doc. 2019-04249 Filed 3-7-19; 8:45 am]

BILLING CODE 4165-16-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Metabolism, Delirium and Cognitive Dysfunction.

Date: March 21, 2019.

Time: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Samuel C. Edwards, Ph.D., Chief, BDCN IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5210, MSC 7846, Bethesda, MD 20892, (301) 435-1246, edwardss@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393-93.396, 93.837-93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 4, 2019.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019-04194 Filed 3-7-19; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-HQ-MB-2018-N151; 91100-3740-GRNT 7C]

Announcement of Public Meeting via Teleconference: North American Wetlands Conservation Council

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting/teleconference.

SUMMARY: The North American Wetlands Conservation Council will meet via teleconference to select U.S. small grant proposals for reporting to the Migratory Bird Conservation Commission under the North American Wetlands Conservation Act. This teleconference is open to the public, and interested persons may present oral or written statements.

DATES:

Teleconference: The teleconference is scheduled for March 13, 2019, at 2 p.m. Eastern Time.

Participation: Contact the Council Coordinator for the call-in information (see **FOR FURTHER INFORMATION CONTACT**) no later than March 8, 2019.

Presenting Information During the Teleconference: If you are interested in presenting information, contact the Council Coordinator no later than March 8, 2019.

Submitting Information: To submit written information or questions before the Council meeting for consideration during the meeting, contact the Council Coordinator no later than March 8, 2019.

FOR FURTHER INFORMATION CONTACT:

Michael Johnson, Council Coordinator, by phone at 703-358-1784; by email at dbhc@fws.gov; or by U.S. mail at U.S. Fish and Wildlife Service, 5275 Leesburg Pike MS: MB, Falls Church, VA 22041. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1-800-877-8339 during normal business hours. Also, FRS is available 24 hours a day, 7 days a week, to leave a message or question. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION:

About the Council

In accordance with the North American Wetlands Conservation Act (NAWCA; Pub. L. 101-233, 103 Stat. 1968, December 13, 1989, as amended), the State-private-Federal North American Wetlands Conservation Council (Council) meets to consider wetland acquisition, restoration, enhancement, and management projects for recommendation to, and final funding approval by, the Migratory Bird Conservation Commission (Commission).

North American Wetlands Conservation Act Grants

NAWCA provides matching grants to organizations and individuals who have

developed partnerships to carry out wetlands conservation projects in the United States, Canada, and Mexico. These projects must involve long-term protection, restoration, and/or enhancement of wetland and associated upland habitats for the benefit of all wetland-associated migratory birds. Project proposal due dates, application instructions, and eligibility requirements are available on the NAWCA website at www.fws.gov/birds/grants/north-american-wetland-conservation-act.php.

Public Input

Submitting Written Information or Questions

Interested members of the public may submit relevant information or questions for consideration during the teleconference. If you wish to submit a written statement so information may be made available to the Council prior to the teleconference, you must contact the Council Coordinator by the date in **DATES**. Written statements must be supplied to the Council Coordinator in both of the following formats: One hard copy with original signature, and one electronic copy via email (acceptable file formats are Adobe Acrobat PDF, MS Word, MS PowerPoint, or rich text file).

Giving an Oral Presentation

Individuals or groups requesting to make an oral presentation during the teleconference will be limited to 2 minutes per speaker, with no more than a total of 10 minutes for all speakers. Interested parties should contact the Council Coordinator by the date in **DATES**, in writing (preferably via email; see **FOR FURTHER INFORMATION CONTACT**), to be placed on the public speaker list. Nonregistered public speakers will not be considered during the meeting. Registered speakers who wish to expand upon their oral statements, or those who had wished to speak but could not be accommodated on the agenda, are invited to submit written statements to the Council within 30 days following the teleconference.

Meeting Minutes

Summary minutes of the Council teleconference will be maintained by the Council Coordinator at the address under **FOR FURTHER INFORMATION CONTACT**. Teleconference meeting notes will be available by contacting the Council Coordinator within 30 days following the teleconference. Personal copies may be purchased for the cost of duplication.

Dated: March 5, 2019.

Michael J. Johnson,

Acting Assistant Director, Migratory Birds.

[FR Doc. 2019-04236 Filed 3-7-19; 8:45 am]

BILLING CODE 4333-15-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[19X.LLID957000.L14400000.BJ0000.241
A.X.4500104880]

Filing of Plats of Survey: Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Bureau of Land Management, Idaho State Office, Boise, Idaho, in 30 days from the date of this publication.

Boise Meridian

Idaho

T. 15 S., R. 38 E.,
Sections 20 and 21, accepted February 20, 2019.

T. 34 N., R. 3 W.,
Sections 19, 27, 29, 30, 31, and 34,
accepted February 20, 2019.

T. 10 S., R. 5 W.,
Sections 7 and 18, accepted February 20, 2019.

T. 10 S., R. 6 W.,
Sections 1 and 12, accepted February 20, 2019.

ADDRESSES: A copy of the plats may be obtained from the Public Room at the Bureau of Land Management, Idaho State Office, 1387 S. Vinnell Way, Boise, Idaho 83709, upon required payment.

FOR FURTHER INFORMATION CONTACT:

Timothy A. Quincy, (208) 373-3981 Branch of Cadastral Survey, Bureau of Land Management, 1387 South Vinnell Way, Boise, Idaho 83709-1657. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1-800-877-8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with Mr. Quincy. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: A person or party who wishes to protest one or more plats of survey identified above must file a written notice with the Chief Cadastral Surveyor for Idaho, Bureau of Land Management. The protest must identify the plat(s) of survey that the person or party wishes to protest and contain all reasons and evidence in support of the protest. The protest must

be filed before the scheduled date of official filing for the plat(s) of survey being protested. Any protest filed after the scheduled date of official filing will be untimely and will not be considered. A protest is considered filed on the date it is received by the Chief Cadastral Surveyor for Idaho during regular business hours; if received after regular business hours, a protest will be considered filed the next business day. If a protest against a plat of survey is received prior to the scheduled date of official filing, the official filing of the plat of survey identified in the protest will be stayed pending consideration of the protest. A plat of survey will not be officially filed until the next business day following dismissal or resolution of all protests of the plat.

Before including your address, phone number, email address, or other personal identifying information in a protest, you should be aware that the documents you submit, including your personal identifying information, may be made publicly available in their entirety at any time. While you can ask us to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Timothy A. Quincy,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 2019-04230 Filed 3-7-19; 8:45 am]

BILLING CODE 4310-GG-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNVB02000. L51100000. EX0000.
LVEMF140278014x MO#4500131612]

Notice of Availability of the Draft Environmental Impact Statement for the Proposed Gemfield Mine Project, Esmeralda County, Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In compliance with the National Environmental Policy Act of 1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976, as amended (FLPMA), the Bureau of Land Management (BLM) Tonopah Field Office (TFO), Battle Mountain, Nevada, has prepared a Draft Environmental Impact Statement (EIS) for the Gemfield Mine Project and is announcing the beginning of the public comment period to solicit public comments on the Draft EIS. Gemfield Resources, Ltd. (GRL) proposes to construct and operate a conventional

open pit gold mining operation in the Goldfield Mining District of Esmeralda County, Nevada, as described in the Plan of Operations (Plan) submitted by GRL for the Gemfield Mine Project (Project).

DATES: To ensure comments will be considered, the BLM must receive written comments on the Draft EIS within 45 days following the date the Environmental Protection Agency publishes its Notice of Availability in the **Federal Register**. The date(s) and location(s) of any public meetings or other public involvement activities will be announced at least 15 days in advance through public notices, media releases, local media, newspapers, mailings, and the BLM website at: www.blm.gov/nevada.

ADDRESSES: You may submit comments related to the Project by any of the following methods:

- blm_nv_bmdo_mlfo_gemfieldeis@blm.gov.
- Fax: 775-635-4034.
- Mail: BLM Tonopah Field Office, 1553 Main Street, Tonopah, Nevada 89049.

Documents pertinent to this proposal may also be examined at the TFO.

FOR FURTHER INFORMATION CONTACT: Kevin Hurrell, Project Manager; telephone: 775-635-4000; address: 50 Bastian Road, Battle Mountain, Nevada 89820; or email: [blm_nv_bmdo_mlfo_gemfieldeis@blm.gov](mailto://blm_nv_bmdo_mlfo_gemfieldeis@blm.gov). Contact Kevin Hurrell to have your name added to BLM's mailing list. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1-800-877-8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The proposed Project is located approximately 30 miles south of Tonopah, Nevada, and approximately 0.5 miles north of the town of Goldfield, Nevada. Goldfield is located approximately 30 miles south of Tonopah and 174 miles northwest of Las Vegas, Nevada. Approximately 1,935.9 acres of land occurs within the Plan boundary, including approximately 1,214.2 acres of BLM-administered land that is managed by the TFO of the Battle Mountain District and 721.7 acres of private land. The proposed Project would result in approximately 1,337.3 acres of surface disturbance, of which 969.4 acres would occur on BLM-

administered land and 367.9 acres would occur on private land. If the Project is approved, GRL estimates the mine life would be approximately 12 years.

No Action Alternative

The development of new facilities that comprise the Proposed Action would not be constructed under the No Action Alternative. Under this alternative, GRL would not engage in any of the proposed mining operations but would be permitted to continue exploration activities under existing approved authorizations (NV-076555 and NV-077457). Exploration has been permitted on 23.84 acres of previously disturbed federally administered land and privately owned and patented and unpatented lands.

Reduced Mine Plan Alternative

The Reduced Mine Plan Alternative would consist of the same overall activities as described for the Proposed Action but would have a reduced open pit footprint, configuration, and depth. The resulting open pit would result in corresponding effects on the configuration of the major mine facilities, particularly the Waste Rock Disposal Areas (WRDAs) and Heap Leach Pad (HLP). However, there would be no changes to the Plan boundary access routes, land status, or proposed Right of Way (ROW) actions.

Overall, this alternative would result in approximately 86.6 fewer acres of disturbance (including approximately 13 fewer acres of disturbance on BLM land) as compared to the Proposed Action. Total disturbance for this alternative is 1,250.7 acres including 956.4 acres of public and 294.3 acres of private land.

Partial Backfill Alternative

Under this alternative, approximately 37 million tons of waste rock from the East WRDA would be placed in the East and West lobes of the open pit at elevations ranging from 5,405 feet to 5,510 feet, which is the modeled recovered water level and the minimum amount of backfill required to eliminate the development of the pit lakes. Placement of waste rock in the open pit would eliminate the formation of pit lakes and would reduce the height of the East WRDA. The proposed surface disturbance, project location, access routes, land status, ROW amendments and existing disturbance would be the same as described for the Proposed Action. This alternative also would add approximately 2 years to mine operation and reclamation activities.

The Draft EIS describes and analyzes the Proposed Project's direct, indirect, and cumulative impacts on all affected resources. In addition to the Proposed Project, and No Action Alternative, two additional action alternatives were analyzed, the Reduced Mine Plan Alternative and the Partial Backfill Alternative.

On December 24, 2013, a Notice of Intent was published in the **Federal Register** inviting scoping comments on the Proposed Action. The BLM held a public scoping meeting in Tonopah, Nevada on January 10, 2014. The BLM received seven scoping comment submittals during the scoping period. Concerns raised included impacts to water resources, cultural resources, and land use and realty.

The BLM has utilized and coordinated the NEPA scoping and comment process to help fulfill the public involvement requirements under the National Historic Preservation Act (NHPA) (54 U.S.C. 306108) as provided in 36 CFR 800.2(d)(3), and the agency continues to do so. The information about historical and cultural resources within the area potentially affected by the Proposed Project has assisted the BLM in identifying and evaluating impacts to such resources in the context of both NEPA and the NHPA.

The BLM has consulted and continues to consult with Indian tribes on a government-to-government basis in accordance with Executive Order 13175 and other policies. Tribal concerns, including impacts to Indian trust assets and potential impacts to cultural resources have been analyzed in the Draft EIS. Federal, State, and local agencies, along with tribes and other stakeholders that may be interested in or affected by the Proposed Project, are invited to participate in the comment process.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 40 CFR 1501.7

Timothy Coward,

Field Manager, Tonopah Field Office.

[FR Doc. 2019-04262 Filed 3-7-19; 8:45 am]

BILLING CODE 4310-HC-P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731-TA-929-931 (Third Review)]

Silicomanganese From India, Kazakhstan, and Venezuela; Scheduling of Expedited Five-Year Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of expedited reviews pursuant to the Tariff Act of 1930 (“the Act”) to determine whether revocation of the antidumping duty orders on silicomanganese from India, Kazakhstan, and Venezuela would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.

DATES: December 10, 2018.

FOR FURTHER INFORMATION CONTACT: Christopher W. Robinson, (202-202-2542), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission’s TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<https://www.usitc.gov>). The public record for these reviews may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Background.—On December 10, 2018, the Commission determined that the domestic interested party group response to its notice of institution (83 FR 44898, September 4, 2018) of the subject five-year reviews was adequate and that the respondent interested party group response was inadequate in each review. The Commission did not find any other circumstances that would warrant conducting full reviews.¹ Accordingly, the Commission determined that it would conduct expedited reviews pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(3)).² Due to the lapse in

appropriations and ensuing cessation of Commission operations, the Commission tolled its deadlines in these reviews.

For further information concerning the conduct of these reviews and rules of general application, consult the Commission’s Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

Staff report.—A staff report containing information concerning the subject matter of the reviews will be placed in the nonpublic record on March 7, 2019, and made available to persons on the Administrative Protective Order service list for these reviews. A public version will be issued thereafter, pursuant to section 207.62(d)(4) of the Commission’s rules.

Written submissions.—As provided in section 207.62(d) of the Commission’s rules, interested parties that are parties to the reviews and that have provided individually adequate responses to the notice of institution, and any party other than an interested party to the reviews may file written comments with the Secretary on what determinations the Commission should reach in the reviews. Comments are due on or before March 12, 2019 and may not contain new factual information. Any person that is neither a party to the five-year reviews nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the reviews by March 12, 2019. However, should the Department of Commerce (“Commerce”) extend the time limit for its completion of the final results of its reviews, the deadline for comments (which may not contain new factual information) on Commerce’s final results is three business days after the issuance of Commerce’s results. If comments contain business proprietary information (BPI), they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission’s rules. The Commission’s rules with respect to filing were revised effective July 25, 2014. See 79 FR 35920 (June 25, 2014), and the revised Commission Handbook on E-filing, available from the Commission’s website at <https://edis.usitc.gov>.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Determinations.—The Commission has determined these reviews are extraordinarily complicated and therefore has determined to exercise its authority to extend the reviews period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B).

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission’s rules.

By order of the Commission.

Issued: March 4, 2019.

Katherine Hiner,

Acting Secretary to the Commission.

[FR Doc. 2019-04170 Filed 3-7-19; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1134]

Certain Sleep-Disordered Breathing Treatment Mask Systems and Components Thereof; Notice of the Commission’s Determination To Review an Initial Determination Amending the Complaint and Notice of Investigation; Affirmance of the Initial Determination With Modified Reasoning

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review the presiding administrative law judge’s (“ALJ”) initial determination (“ID”) (Order No. 11) amending the complaint and notice of investigation to reflect a corporate name change of complainant ResMed Ltd to ResMed Pty Ltd.

FOR FURTHER INFORMATION CONTACT:

Amanda Pitcher Fisherow, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205-2737. 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

¹ A record of the Commissioners’ votes, the Commission’s statement on adequacy, and any individual Commissioner’s statements will be available from the Office of the Secretary and at the Commission’s website.

² Chairman Johanson and Commissioner Broadbent voted to conduct full reviews.

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 October 4, 2018, based on a complaint, as supplemented, filed on behalf of ResMed Corp. of San Diego, California, ResMed Inc. of San Diego, California, and ResMed Ltd. of Bella Vista, Australia (collectively, "Complainants"). 83 FR 50,121 (October 4, 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"), based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain sleep-disordered breathing treatment mask systems and components thereof by reason of infringement of certain claims of U.S. Patent No. 9,119,931; U.S. Patent No. 9,027,556; U.S. Patent No. 9,962,511; U.S. Patent No. 9,962,510; U.S. Patent No. 9,937,315. The complaint further alleges that an industry in the United States exists as required by section 337. The notice of investigation named Fisher & Paykel Healthcare Limited of Auckland, New Zealand; Fisher & Paykel Healthcare, Inc. of Irvine, California; and Fisher & Paykel Healthcare Distribution Inc. of Irvine, California as respondents. The Office of Unfair Import Investigations is not participating in this investigation.

On February 13, 2019, the Complainants filed an unopposed motion for leave to amend the complaint and notice of investigation to reflect a corporate name change of one of the complainants from ResMed Ltd to ResMed Pty Ltd. Complainants argued that good cause exists and that there would be no harm to the public interest.

On February 14, 2019, the ALJ issued the subject ID, granting complainants' unopposed motion. The ID found that good cause exists to amend the complaint and notice of investigation. The ID also noted that there was no opposition to the motion. No petitions for review were filed.

The Commission has determined to review the ID. On review, the Commission affirms the ID's finding that good cause has been shown. The Commission further finds that the amendment to the notice of investigation and complaint would not prejudice the public interest. The

complaint and notice of investigation are amended to reflect the corporate name change from ResMed Ltd to ResMed Pty Ltd.

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: March 5, 2019.

Katherine Hiner,

Acting Secretary to the Commission.

[FR Doc. 2019-04243 Filed 3-7-19; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Petroleum Environmental Research Forum

Notice is hereby given that, on February 22, 2019, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Petroleum Environmental Research Forum ("PERF") 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, CH2MHill, Englewood, CO; GeoSyntec Consultants, Inc., Boca Raton, FL; Syncrude Canada, Ltd., Edmonton, CANADA; Test America, Inc., Parker, CO; Nalco, Sugar Land, TX; and Trihydro, Laramie, WY, 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 PERF intends to file additional written notifications disclosing all changes in membership.

On February 10, 1986, PERF 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 March 14, 1986 (51 FR 8903).

The last notification was filed with the Department on January 29, 2019. A

notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on February 14, 2019 (84 FR 4103).

Suzanne Morris,

Chief, Premerger and Division Statistics Unit, Antitrust Division.

[FR Doc. 2019-04193 Filed 3-7-19; 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—Halon Alternatives Research Corporation, Inc.

Notice is hereby given that, on February 21, 2019, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Halon Alternatives Research Corporation, Inc. ("HARC") 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, Airbus S.A.S.1, Toulouse, FRANCE and Honeywell, Morris Plains, NJ, have been added 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 HARC intends to file additional written notifications disclosing all changes in membership.

On February 7, 1990, HARC 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 March 7, 1990 (55 FR 8204).

The last notification was filed with the Department on March 9, 2017. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on April 10, 2017 (82 FR 17281).

Suzanne Morris,

Chief, Premerger and Division Statistics Unit, Antitrust Division.

[FR Doc. 2019-04195 Filed 3-7-19; 8:45 am]

BILLING CODE 4410-11-P

OFFICE OF MANAGEMENT AND BUDGET**OMB Final Sequestration Report to the President and Congress for Fiscal Year 2019**

AGENCY: Executive Office of the President, Office of Management and Budget.

ACTION: Notice of availability of the OMB Final Sequestration Report to the President and Congress for FY 2019.

SUMMARY: OMB is issuing its *Final Sequestration Report to the President and Congress for Fiscal Year 2019* to report on compliance of enacted 2019 discretionary appropriations legislation with the discretionary caps. The report finds that enacted appropriations are within the discretionary caps for 2019. As a result, a sequestration of discretionary budget authority is not required in 2019.

DATES: *Effective Date:* March 4, 2019. Section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985, requires the Office of Management and Budget (OMB) to issue its Final Sequestration Report 15 calendar days after the end of a congressional session. With regard to this final report and to each of the three required sequestration reports, section 254(b) specifically states the following:

SUBMISSION AND AVAILABILITY OF REPORTS.—Each report required by this section shall be submitted, in the case of CBO, to the House of Representatives, the Senate and OMB and, in the case of OMB, to the House of Representatives, the Senate, and the President on the day it is issued. On the following day, a notice of the report shall be printed in the **Federal Register**.

However, a provision in the 2019 Continuing Resolution delayed the release of this report until 15 days after the 2019 Continuing Resolution expired on February 15, 2019.

ADDRESSES: The OMB Sequestration Reports to the President and Congress is available on-line on the OMB home page at: <https://www.whitehouse.gov/omb/legislative/sequestration-reports-orders/>.

FOR FURTHER INFORMATION CONTACT: Thomas Tobasko, 6202 New Executive Office Building, Washington, DC 20503, Email address: ttobasko@omb.eop.gov, telephone number: (202) 395-5745, FAX number: (202) 395-4768. Because of delays in the receipt of regular mail related to security screening,

respondents are encouraged to use electronic communications.

Russel T. Vought,
Acting Director.

[FR Doc. 2019-04171 Filed 3-7-19; 8:45 am]

BILLING CODE 3110-01-P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES**National Endowment for the Arts****National Council on the Arts 196th Meeting**

AGENCY: National Endowment for the Arts, National Foundation on the Arts and the Humanities.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, as amended, notice is hereby given that a meeting of the National Council on the Arts will be held. Open to the public on a space available basis.

DATES: See the **SUPPLEMENTARY INFORMATION** section for meeting time and date. The meeting is Eastern time and the ending time is approximate.

ADDRESSES: Russell Senate Building, Room #SR-485, 2 Constitution Avenue NE, Washington DC, 20002.

FOR FURTHER INFORMATION CONTACT: Victoria Hutter, Office of Public Affairs, National Endowment for the Arts, Washington, DC 20506, at 202/682-5570.

SUPPLEMENTARY INFORMATION: If, in the course of the open session discussion, it becomes necessary for the Council to discuss non-public commercial or financial information of intrinsic value, the Council will go into closed session pursuant to subsection (c)(4) of the Government in the Sunshine Act, 5 U.S.C. 552b, and in accordance with the July 5, 2016 determination of the Chairman. Additionally, discussion concerning purely personal information about individuals, such as personal biographical and salary data or medical information, may be conducted by the Council in closed session in accordance with subsection (c)(6) of 5 U.S.C. 552b.

Any interested persons may attend, as observers, to Council discussions and reviews that are open to the public. If you need special accommodations due to a disability, please contact Beth Bienvenu, Office of Accessibility, National Endowment for the Arts, Constitution Center, 400 7th St. SW, Washington, DC 20506, 202/682-5733, Voice/T.T.Y. 202/682-5496, at least seven (7) days prior to the meeting.

The upcoming meeting is:

National Council on the Arts 196th Meeting

This meeting will be open.
Date and time: March 28, 2019; 10:00 a.m. to 12:00 p.m.

From 10:00 a.m. to 10:30 a.m.—Opening remarks and voting on recommendations for grant funding and rejection, followed by updates from the Acting Chairman. There also will be the following presentations (times are approximate): From 10:30 a.m. to 11:00 a.m.—*Presentation on Importance of the NEA* (Mary Anne Carter, Acting Chairman); from 11:00 a.m. to 11:30 a.m.—*Remarks from Members of Congress*; and from 11:30 a.m. to 12:00 p.m.—*Preview of June 2019 NCA Meeting in Detroit, Michigan* (W. Omari Rush, Chair, Michigan Council for Arts and Cultural Affairs; and Alison Watson, Director, Michigan Council for Arts and Cultural Affairs.)

Dated: March 5, 2019.

Sherry P. Hale,
Staff Assistant, National Endowment for the Arts.

[FR Doc. 2019-04228 Filed 3-7-19; 8:45 am]

BILLING CODE 7537-01-P

NUCLEAR REGULATORY COMMISSION

[NRC-2008-0465]

Revision of Guidelines on Use of Firearms by Security Personnel

AGENCY: Nuclear Regulatory Commission.

ACTION: Firearms guidelines; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing, with the approval of the U.S. Attorney General, revised guidelines on the use of weapons by the security personnel of licensees and certificate holders whose official duties include the protection of designated facilities, certain radioactive material or other property owned or operated by an NRC licensee or certificate holder, or radioactive material or other property that is being transported to or from a facility owned or operated by such a licensee or certificate holder. The revised guidelines are entitled "Guidelines on the Use of Firearms by Security Personnel in Protecting U.S. NRC-Regulated Facilities, Radioactive Material, and Other Property, Revision 2." The NRC first issued firearms guidelines on September 11, 2009.

DATES: The revised Firearms Guidelines take effect on March 8, 2019.

ADDRESSES: Please refer to Docket ID NRC-2008-0465 when contacting the

NRC about the availability of information regarding this document. You may access publicly available information related to this action by the following methods:

- *Federal Rulemaking Website*: Go to <http://www.regulations.gov> and search for Docket ID NRC-2008-0465. Address questions about NRC docket IDs in *Regulations.gov* to Krupskaya Castellon; telephone: 301-287-9221; email: Krupskaya.Castellon@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, at 301-415-4737, or by email to pdr.resource@nrc.gov.

- *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: Norman St. Amour, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone 301-287-9129, email Norman.StAmour@nrc.gov.

SUPPLEMENTARY INFORMATION: Section 161A of the Atomic Energy Act of 1954, as amended (AEA), "Use of Firearms by Security Personnel," (42 U.S.C. 2201a) provides statutory authority for the Commission to authorize the security personnel of an NRC licensee or certificate holder to transfer, receive, possess, transport, import, and use certain firearms, weapons, ammunition, or devices notwithstanding State, local, and certain Federal firearms laws that prohibit such actions. Section 161A of the AEA took effect on September 11, 2009, when the Commission issued the original Firearms Guidelines (74 FR 46800).

This revision to the Firearms Guidelines removes from the guidelines the 45-day deadline for appealing a delayed or denied firearms background check response from the Federal Bureau of Investigation (FBI) and the process for requesting an extension of that deadline. These appeal provisions applied to those licensee or certificate holder security personnel who receive a delayed or denied firearms background

check response from the FBI. The Commission determined that it lacked the regulatory authority to impose this deadline and extension request process on licensee or certificate holder security personnel because the deadline and extension request process have no nexus to radiological health and safety or the common defense and security. Removal of these appeal deadline provisions will not have an adverse impact on licensee or certificate holder security personnel because the existing FBI procedures to appeal a delayed or denied firearms background check response remain unaffected by this change. The FBI's appeal process does not contain any appeal deadline. This revision also makes minor editorial and conforming changes to the Firearms Guidelines. These minor changes serve to eliminate any confusion regarding the appeals process; the guidelines will continue to include a reference to the FBI's appeals process.

This revision to the Firearms Guidelines consists of two specific changes. First, the ninth paragraph under section 5, "Firearms Background Checks," is amended to eliminate the 45-day appeal deadline, the associated extension request process, and information regarding appeals that is better addressed in guidance. Second, the indentation of "*Satisfactory firearms background check*" in Section 8, "Definitions," is corrected.

The U.S. Attorney General approved this revision to the Firearms Guidelines by letter dated February 6, 2019 (ADAMS Accession No. ML19052A207). The Commission approved and authorized publication of the revised Firearms Guidelines in the **Federal Register** on September 4, 2018 (ADAMS Accession No. ML18247A478). The revised Firearms Guidelines are included as an attachment to this document.

Dated at Rockville, Maryland, this 4th day of March 2019.

For the Nuclear Regulatory Commission,
Annette L. Vietti-Cook,
Secretary of the Commission.

Attachment

Guidelines on the Use of Firearms by Security Personnel in Protecting U.S. NRC Regulated Facilities, Radioactive Material, and Other Property, Revision 2

1. Authority and Scope

On August 8, 2005, the President signed into law the Energy Policy Act of 2005 (the Act), Public Law 109-58, 119 Stat. 594. Section 653 of the Act amended the Atomic Energy Act of 1954, as amended, (AEA) by adding section 161A, "Use of Firearms by Security Personnel," 42 U.S.C. 2201a. Section 161A of the AEA provides new

authority to the U.S. Nuclear Regulatory Commission (Commission or NRC) to enhance security at designated facilities of NRC licensees and certificate holders and to enhance security with respect to certain radioactive material or other property owned or possessed by an NRC licensee or certificate holder, or the transportation of such material or other property.

Specifically, section 161A provides two potential advantages to NRC licensees and certificate holders to enhance security. First, the Commission is authorized to permit the security personnel of licensees and certificate holders to obtain enhanced weapons, such as machineguns, short-barreled shotguns, and short-barreled rifles, not previously permitted to be owned or possessed under Commission authority (enhanced weapons authority). Second, section 161A authorizes the Commission to permit the security personnel of licensees or certificate holders to transfer, receive, possess, transport, import, and use handguns, rifles, shotguns, short-barreled shotguns, short-barreled rifles, machineguns, semiautomatic assault weapons, ammunition for such weapons, and large capacity ammunition feeding devices notwithstanding State, local, and certain Federal firearms laws, including regulations, that prohibit such conduct (preemption authority).

Prior to the enactment of section 161A, with limited exceptions, only Federal, State or local law enforcement could lawfully possess machineguns. Section 161A authority, however, allows licensees and certificate holders, who obtain the necessary authorization from the NRC, to lawfully possess machineguns (enhanced weapons authority) that they previously were not authorized to possess.

An NRC licensee or certificate holder must apply to the Commission to take advantage of the provisions of section 161A. Prior to granting an application to permit security personnel of an NRC licensee or certificate holder to transfer, receive, possess, transport, import, and use a weapon, ammunition, or device not previously authorized, the Commission must determine that the requested authority is necessary in the discharge of the official duties of the security personnel and the security personnel are engaged in protecting: (1) A facility owned or operated by an NRC licensee or certificate holder and designated by the Commission, or (2) radioactive material or other property that has been determined by the Commission to be of significance to public health and safety or the common defense and security, and that is owned or possessed by an NRC licensee or certificate holder, or that is being transported to or from an NRC-regulated facility. The Commission's authorization shall only apply to use by security personnel of a licensee or certificate holder of a weapon, ammunition, or a device listed in section 161A.b. when used by such personnel while in the discharge of their official duties.

Section 161A also mandates that all security personnel that receive, possess, transport, import, or use a weapon, ammunition, or a device otherwise prohibited by State, local, or certain Federal laws, including regulations, as provided by

section 161A.b. (42 U.S.C. 2201a(b)) shall be subject to a fingerprint-based background check by the Attorney General and a firearms background check against the Federal National Instant Background Check System (NICS). These firearms background checks will provide assurance that such security personnel are not barred from possessing, transporting, or using any covered weapons.

Section 161A took effect with the publication of these guidelines in the **Federal Register** on September 11, 2009 (74 FR 46800).

Regulations or orders issued by the Commission concerning section 161A shall be consistent with the provisions of these guidelines. Modification of these guidelines by the Commission must be made with the concurrence of the Attorney General.

Definitions of terms that may not have a commonly understood meaning are contained in section 8 of these guidelines.

2. Commission Designations and Determinations

After the issuance of these guidelines, the Commission will promulgate regulations or issue orders that designate specific classes of licensees and certificate holders eligible to apply to the Commission to use the authority of section 161A. Commission regulations or orders will designate the specific types of facilities, radioactive material, or other property owned or possessed by NRC licensees and certificate holders, or specific types of radioactive material or other property being transported to or from a facility owned or operated by an NRC licensee or certificate holder, for which an application to the Commission may be made to use the authority of section 161A. The Commission's designation of specific radioactive material or other property will be based upon a finding that the material or property is of significance to the common defense and security or public health and safety. These regulations or orders will require NRC licensees or certificate holders that have been designated by the Commission pursuant to section 161A, and that have chosen to apply for preemption authority only or for enhanced weapons authority and preemption authority, to ensure that their armed security personnel who will have access to covered weapons and who are engaged in the protection of a designated facility, radioactive material, or other property, complete a satisfactory firearms background check as described in section 5 of these guidelines.

The Commission will promulgate regulations or issue orders establishing a process for NRC-regulated entities to apply for and obtain preemption authority under section 161A. The Commission will also promulgate regulations or issue orders establishing a process for NRC-regulated entities to apply for and obtain both enhanced weapons authority and preemption authority under section 161A. An NRC-regulated entity may obtain preemption authority without applying for enhanced weapons authority. An NRC-regulated entity seeking enhanced weapons authority must obtain both enhanced weapons authority and preemption authority. A licensee's or

certificate holder's applications for preemption authority and enhanced weapons authority may be sequential or concurrent, but the NRC must approve the licensee's or certificate holder's applications for preemption authority at the same time as or before approving its application for enhanced weapons authority.

In addition, Commission regulations or orders will require that before licensees and certificate holders may be granted authority by the NRC to obtain enhanced weapons they must: (1) Apply to the NRC for preemption authority, (2) apply to the NRC for approval to obtain enhanced weapons, and (3) develop new, or revise existing, physical security plans (including plans for the safe storage of enhanced weapons), security personnel training and qualification plans, safeguards contingency plans, and safety assessments incorporating the use of the enhanced weapons to be employed. These plans and assessments must be specific to the facility, radioactive material, or other property being protected; must identify the specific type(s) of enhanced weapons that will be used by security personnel; and must address how these enhanced weapons will be employed in meeting the NRC-required protective strategy. Licensees and certificate holders must submit these new, or revised, plans and assessments to the NRC for review and written approval. The requirements for the contents of the licensee's and certificate holder's physical security plans, security personnel training and qualification plans, safeguards contingency plans, and safety assessments on the use of enhanced weapons are contained in NRC regulations.

Based upon the NRC's review of an applicant's plans and assessments (as provided in the preceding paragraph) and upon a determination that all of the requirements of section 161A have been, or will be, met, the NRC will provide a written statement to the licensee or certificate holder stating that the NRC has determined that the licensee's or certificate holder's need for the specific enhanced weapons that the licensee or certificate holder intends to deploy satisfies the requirements of the NRC under section 161A.

Licensees and certificate holders lawfully possessing enhanced weapons under an authority other than section 161A on or before the effective date of these guidelines are not required to revise their previously approved security plans, unless the licensee or certificate holder applies to the NRC under section 161A for preemption authority or for enhanced weapons authority and preemption authority.

3. Applicability of Federal Firearms Laws, Regulations and Licensing Requirements

In addition to complying with Commission regulations and orders implementing section 161A, NRC licensees and certificate holders must also comply with applicable provisions of Title 18 U.S.C. Chapter 44 (the Gun Control Act), Title 26 U.S.C. Chapter 53 (National Firearms Act), and 27 CFR parts 478 and 479 (the applicable regulations promulgated under those laws by the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF)), regarding the transfer,

receipt, possession, transportation, importation, or use of covered weapons, except to the extent that those regulations are superseded by section 161A. After a licensee's or certificate holder's receipt of the NRC's written approval of their application for enhanced weapons authority, the licensee or certificate holder may, in accordance with 26 U.S.C. Chapter 53, have enhanced weapons transferred to them. An application to transfer an enhanced weapon to a licensee or certificate holder must be submitted to ATF by the transferor of the enhanced weapon. The application must include all required information including a copy of the NRC's written approval to possess specific enhanced weapons under section 161A. All enhanced weapons must be registered with ATF under the name of the licensee or certificate holder.

4. Training and Qualification on Enhanced Weapons

The Commission will promulgate regulations or issue orders requiring NRC licensees or certificate holders who have received written NRC approval of their application for section 161A enhanced weapons authority to provide specific training to their security personnel on the possession, storage, maintenance, and use of enhanced weapons and on tactical maneuvers employing such weapons in protecting NRC-designated facilities, radioactive material, or other property, whichever is applicable. The regulations or orders will require such licensees and certificate holders to incorporate within their security personnel training and qualification plans specific training and qualification information applicable to the enhanced weapons to be employed, including information regarding tactical maneuvers that security personnel will carry out with those weapons. This training and qualification information must conform to firearms training and qualification standards developed by nationally-recognized firearms organizations or standard setting bodies, or with standards developed by Federal agencies, such as the U.S. Department of Homeland Security's Federal Law Enforcement Training Center, the U.S. Department of Energy's National Training Center, and the U.S. Department of Defense.

5. Firearms Background Checks

The Commission will promulgate regulations or issue orders establishing requirements for firearms background checks. Licensees and certificate holders may apply to the NRC for preemption authority only or for both enhanced weapons authority and preemption authority. In either case, to obtain approval of such an application, satisfactory firearms background checks must have been completed for the licensee's or certificate holder's security personnel whose official duties require access to covered weapons. The firearms background check requirement applies to such security personnel whether they are directly employed by the licensee or certificate holder or they are employed by a security contractor who provides security services to the licensee or certificate holder.

The Commission's regulations or orders will set forth the criteria for satisfactory and adverse firearms background checks, as defined in section 8(a) of these guidelines. The regulations or orders will require that NRC licensees and certificate holders designated by the Commission pursuant to section 161A, and who have applied for preemption authority only or for enhanced weapons authority and preemption authority, ensure that their armed security personnel who have access to covered weapons and who are engaged in the protection of a designated facility, radioactive material, or other property, complete a firearms background check. The firearms background checks are in addition to any other background checks or criminal history checks required for security personnel under Commission regulations or orders.

An applicant for preemption authority only or for enhanced weapons authority and preemption authority may begin firearms background checks of its security personnel who are proposed to have official duties that require access to covered weapons in the protection of such facilities, radioactive material, or other property after the NRC notifies the applicant that its application has been accepted for review. Upon notification that any personnel have received a "denied" National Instant Criminal Background Check System (NICS) response, an applicant must immediately remove such personnel from duties that would require access to covered weapons. Once a licensee or certificate holder has been granted preemption authority only or enhanced weapons authority and preemption authority under section 161A, a licensee or certificate holder must prohibit any personnel receiving a "denied" or "delayed" NICS response from assuming duties requiring access to covered weapons. Security personnel who received a "denied" or "delayed" NICS response and who subsequently receive a response that a satisfactory firearms background check has been completed may be permitted access to covered weapons.

Before granting preemption authority, the Commission will require persons who are licensees and certificate holders on the effective date of these guidelines, and who have applied for preemption authority only or for enhanced weapons authority and preemption authority, to notify the NRC in writing after a sufficient number of security personnel have completed a satisfactory firearms background check to permit the licensee or certificate holder to meet the licensee's or certificate holder's security personnel minimum staffing and fatigue requirements. The NRC will review such readiness notifications on a case-by-case basis prior to approving a licensee's or certificate holder's application for preemption authority.

Any licensee or certificate holder granted preemption authority only or enhanced weapons authority and preemption authority is required to conduct periodic firearms background checks of all security personnel who have, or are proposed to have, official duties that require access to covered weapons in the protection of such a facility, radioactive material, or other property, at a

minimum of once every five years after their first background check. However, these checks may be conducted more frequently if required by Commission regulation or order, or if the licensee or certificate holder requires an earlier check.

Security personnel who receive an adverse firearms background check response upon a recheck must be removed from duties that require access to covered weapons. Security personnel so removed who subsequently complete a satisfactory firearms background check may be permitted access to covered weapons. In addition, the Commission will require a new firearms background check for security personnel who have had a break of greater than one (1) week in employment by the licensee or certificate holder or in employment by a contractor who provides security services to a licensee or certificate holder.

The Commission will require a new firearms background check for security personnel who have transferred to the employment or the service of the licensee or certificate holder from a different licensee or certificate holder in whose employ they previously completed a satisfactory firearms background check. However, a change in the ownership of the licensee or certificate holder, a change in the ownership of the security contractor providing the security personnel, or a change in the security contractor providing the security personnel will not require, by itself, the performance of a new firearms background check for a personnel who have previously completed a satisfactory firearms background check.

The Commission will promulgate regulations or issue orders requiring a licensee or certificate holder who has been granted preemption authority only or enhanced weapons authority and preemption authority to establish procedures for notifying the NRC when a security officer assigned duties requiring access to covered weapons is permanently removed from such duties because of an adverse firearms background check. The NRC will promptly report suspected violations of Federal law to the appropriate Federal agency and suspected violations of State law to the appropriate State agency.

The Commission will promulgate regulations or issue orders requiring licensees and certificate holders to inform security personnel who have received an adverse firearms background check of the process to appeal a "denied" NICS response to the FBI, or to provide additional information to the FBI to resolve a "delayed" NICS response.

6. Enhanced Weapons Accountability, Transfer, Transportation, and Record Keeping

The Commission will promulgate regulations or issue orders requiring licensees and certificate holders to perform periodic accountability inventories of the enhanced weapons in their possession to verify their continued possession of each enhanced weapon. The regulations or orders will require licensees or certificate holders to complete such inventories at specified intervals, and at least one inventory will be

conducted each year. These inventories must be based upon the verification of the presence at the licensee's or certificate holder's facility of each enhanced weapon or upon a verification of the presence of an intact tamper indicating device for enhanced weapons that are stored in locked and sealed storage or ready-service containers at the licensee's or certificate holder's facility. The regulations or orders will require that licensees and certificate holders permitting enhanced weapons to be removed from their facility (*i.e.*, the owner-controlled area) by security personnel for permissible reasons verify that such weapons are subsequently returned to the licensee's or certificate holder's facility upon completion of official use of the weapons.

Permissible reasons for removal of enhanced weapons from the licensee's or certificate holder's facility include: (1) Removal for use at a firing range or training facility used by the licensee or certificate holder, and (2) removal for use in escorting shipments of radioactive material or other property designated by the Commission under section 2 of these guidelines, if the material or other property is being transported to or from the licensee's or certificate holder's facility. The Commission may provide other permissible reasons for the removal of enhanced weapons by regulation or order.

Any removal of the enhanced weapons from a licensee's or certificate holder's facility by a contractor would constitute a transfer of those weapons unless accompanied by the licensee's security personnel who are authorized to direct the contractor and therefore maintain control over the weapons. The licensee or certificate holder may only transfer (by sale or otherwise) enhanced weapons pursuant to an application approved by ATF under 26 U.S.C. Chapter 53.

A licensee or certificate holder receiving enhanced weapons must assist the transferor in completing an application to transfer such weapons in accordance with 26 U.S.C. 5812, and must provide the transferor a copy of the NRC's written approval of its application for enhanced weapons authority. Enhanced weapons may only be transferred to the licensee or certificate holder, not to a contractor of the licensee or certificate holder.

The Commission will promulgate regulations or issue orders requiring a licensee or certificate holder possessing enhanced weapons to notify the NRC and the appropriate local authorities of any stolen or lost enhanced weapons upon the discovery of such theft or loss. Licensees and certificate holders will also have an independent obligation, pursuant to 27 CFR 479.141, to report to ATF stolen or lost enhanced weapons registered in accordance with 26 U.S.C. 5841 immediately upon the discovery of such theft or loss.

Security personnel transporting enhanced weapons to or from a firing range or training facility used by the licensee or certificate holder are responsible for assuring that the weapons are unloaded and locked in a secure container during transport. Except as provided in the next paragraph, security

personnel transporting enhanced weapons to or from a licensee's or certificate holder's facility following the completion of, or in preparation for, escorting designated radioactive material or other property being transported to or from the licensee's or certificate holder's facility are responsible for assuring that the weapons are unloaded and locked in a secure container during transport. Only authorized personnel shall have access to the contents of the container. Unloaded covered weapons and ammunition for such weapons may be transported in the same secure container during transport.

Security personnel required to carry covered weapons while escorting designated radioactive material or other property being transported to or from the licensee's or certificate holder's facility (whether intrastate or interstate) are responsible for assuring that such weapons are maintained in a state of loaded readiness and available for immediate use while they are accompanying the transport.

To facilitate compliance with these guidelines, the NRC's regulations or orders will require licensees and certificate holders to keep records (capable of being inspected or audited by the NRC) relating to the receipt, transfer, and transportation of enhanced weapons. The records will be required to include the following minimum information relating to receipt and transfer of enhanced weapons: The date of receipt of the enhanced weapon; the name and address of the person from whom the enhanced weapon was received; the name of the manufacturer and importer (if any) of the enhanced weapon; the model, serial number, type, and caliber or gauge of the enhanced weapon; and for any transfer of an enhanced weapon (including sending off for repairs) by the licensee or certificate holder to another person, the name and address of the person to whom the enhanced weapon was transferred and the date of the transfer. The records will be required to include the following minimum information relating to transportation of enhanced weapons: The date of departure of the enhanced weapon from, and the date of return of the enhanced weapon to, the licensee's or certificate holder's facility; the purpose of the enhanced weapon's transportation; the name of the person/facility to whom the enhanced weapon is being transported; and the model, serial number, type, and caliber or gauge of the enhanced weapon.

7. Termination, Modification, Suspension, and Revocation

The Commission will promulgate regulations or issue orders setting forth standards for the termination, modification, suspension, or revocation of the NRC's approval of a licensee's or certificate holder's preemption authority or enhanced weapons authority and preemption authority. Within three (3) business days of notifying the licensee or certificate holder, the NRC will notify ATF of the termination, modification, suspension, or revocation of a licensee's or certificate holder's preemption authority or enhanced weapons authority and preemption authority. Such a notification will be made

to the position or point of contact designated by ATF. The regulations or orders will require licensees and certificate holders to transfer any enhanced weapons that they are no longer authorized to lawfully possess under section 161A, or that they wish to dispose of, to (1) a Federal, State, or local government entity; (2) a Federal firearms licensee authorized to receive the enhanced weapons under applicable law and regulations; or (3) other NRC licensees and certificate holders subject to section 161A that are authorized to receive and possess these weapons. Licensees and certificate holders may also abandon such weapons to ATF. Transfers of such enhanced weapons must be made in accordance with section 6 of these guidelines.

The regulations or orders will require licensees and certificate holders to transfer any enhanced weapons (1) prior to NRC approval of the termination or modification of a licensee's or certificate holder's authority to possess the enhanced weapons under section 161A, and (2) as soon as practicable following NRC suspension or revocation of the licensee's or certificate holder's authority to lawfully possess enhanced weapons under section 161A.

Licensees and certificate holders who have had their preemption authority or enhanced weapons and preemption authority suspended or revoked may reapply for such authority by filing a new application for such authority under these guidelines.

Licensees and certificate holders who intend to obtain enhanced weapons different from the weapons previously approved by the NRC must submit to the NRC for prior review and approval revised physical security plans, training and qualification plans, safeguards contingency plans, and safety assessments addressing the use of these different enhanced weapons.

8. Definitions

(a) As used in these guidelines—

Adverse firearms background check means a firearms background check that has resulted in a "denied" or "delayed" NICS response.

Covered weapon means any handgun, rifle, shotgun, short-barreled shotgun, short-barreled rifle, semiautomatic assault weapon, machinegun, ammunition for any such weapon, or large capacity ammunition feeding device otherwise prohibited by State, local, or certain Federal laws, including regulations, as specified under section 161A.b.

Enhanced weapon means any short-barreled shotgun, short-barreled rifle, or machinegun. Enhanced weapons do not include destructive devices as defined in 18 U.S.C. 921(a).

Firearms background check means a background check by the Attorney General pursuant to section 161A that includes a check against the Federal Bureau of Investigation's (FBI's) fingerprint system and the NICS.

NICS means the National Instant Criminal Background Check System established by section 103(b) of the Brady Handgun Violence Prevention Act, Public Law 103–159, 107 Stat. 1536 (1993), that is operated

by the FBI's Criminal Justice Information Services Division.

NICS response means a response provided by the FBI as the result of a firearms background check against the NICS. Such a response may be "proceed," "delayed," or "denied."

Satisfactory firearms background check means a firearms background check that has resulted in a "proceed" NICS response.

(b) The terms "handgun, rifle, shotgun, short-barreled shotgun, short-barreled rifle, machinegun, and ammunition," have the same meaning provided for these terms in 18 U.S.C. 921(a).

(c) The terms "semiautomatic assault weapon" and "large capacity ammunition feeding device" have the same meaning provided for these terms in sections 110101(b) and 110103(b) of the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103 322, 108 Stat 1796, before the expiration of those sections on September 13, 2004.

(d) The terms "proceed," "delayed," and "denied," as used in NICS responses, have the same meaning provided for these terms in the FBI's regulations in 28 CFR part 25.

Disclaimer

These guidelines may not be relied upon to create any rights, substantive or procedural, enforceable by law by any party in any manner, civil or criminal, and they do not place any limitations on otherwise lawful activities of the agencies.

[FR Doc. 2019–04163 Filed 3–7–19; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 33388; 812–14956]

BlackRock Credit Strategies Fund, et al.

March 5, 2019.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice.

Notice of an application under section 6(c) of the Investment Company Act of 1940 (the "Act") for an exemption from sections 18(a)(2), 18(c) and 18(i) of the Act, under sections 6(c) and 23(c) of the Act for an exemption from rule 23c–3 under the Act, and for an order pursuant to section 17(d) of the Act and rule 17d–1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain registered closed-end management investment companies to issue multiple classes of shares and to impose asset-based distribution and/or service fees and early withdrawal charges ("EWCs").

APPLICANTS: BlackRock Credit Strategies Fund (the "Fund"), BlackRock Advisors, LLC (the "Advisor") and

BlackRock Investments, LLC (the “Distributor”).

FILING DATES: The application was filed on September 24, 2018 and amended on January 15, 2019.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission’s Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on April 1, 2019, and should be accompanied by proof of service on the applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer’s interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission’s Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090; Applicants: Janey Ahn, Esq., BlackRock Advisors, LLC, 55 East 52nd Street, New York, NY 10055, and Thomas A. DeCapo, Esq., Skadden, Arps, Slate, Meagher & Flom LLP, 500 Boylston Street, Boston, MA 02116.

FOR FURTHER INFORMATION CONTACT: Laura L. Solomon, Senior Counsel or Kaitlin C. Bottock, Branch Chief, at (202) 551–6825 (Division of Investment Management, Chief Counsel’s Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission’s website by searching for the file number, or for an applicant using the Company name box, at or by calling (202) 551–8090.

Applicants’ Representations

1. The Fund is a Delaware statutory trust that is registered under the Act as a non-diversified, closed-end management investment company. The Fund seeks to provide high income and attractive risk adjusted return. The Fund seeks to achieve its investment objectives by investing, under normal circumstances, at least 80% of its managed assets in fixed income securities, with an emphasis on public and private corporate credit.

2. The Advisor is registered as an investment adviser under the Investment Advisers Act of 1940, as amended. The Advisor will serve as investment adviser to the Fund.

3. The applicants seek an order to permit the Fund to issue multiple classes of shares and to impose asset-based distribution and/or service fees and EWCs.

4. Applicants request that the order also apply to any continuously offered registered closed-end management investment company that has been previously organized or that may be organized in the future for which the Advisor or Distributor, or any entity controlling, controlled by, or under common control with the Advisor or Distributor, or any successor in interest to any such entity,¹ acts as investment manager, adviser or principal underwriter and which operates as an interval fund pursuant to rule 23c–3 under the Act or provides periodic liquidity with respect to its shares pursuant to rule 13e–4 under the Securities Exchange Act of 1934 (“Exchange Act”) (each, a “Periodic Repurchase Fund” and together with the Fund, the “Periodic Repurchase Funds”).²

5. The Fund will continuously offer common shares to the public. Applicants state that additional offerings by any Periodic Repurchase Fund relying on the order may be on a private placement or public offering basis. Shares of the Fund will not be listed on any securities exchange nor quoted on any quotation medium. The Fund does not expect there to be a secondary trading market for its shares.

6. The Fund will initially offer only one share class at net asset value (the “Initial Class”). If the requested relief is granted, the Fund intends to commence offering a second class of shares (the “Second Class”). The Initial Class will not be subject to a front-end sales load, a distribution fee or a service fee. The Second Class will be subject to a front-end sales load, a distribution fee and/or a service fee. The Fund and other Periodic Repurchase Funds may in the future offer additional classes of shares and/or another sales charges structure. Because of the different distribution fees, services and any other class expenses that may be attributable to the each class of shares, the net income attributable to, and the dividends payable on, each class of shares may differ from each other.

¹ A successor in interest is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization.

² Any Periodic Repurchase Fund relying on this relief in the future will do so in a manner consistent with the terms and conditions of the application. Applicants represent that each entity presently intending to rely on the requested relief is listed as an applicant.

7. Applicants state that, from time to time, the Periodic Repurchase Funds may create additional classes of shares, the terms of which may differ from the initial class in the following respects: (i) The amount of fees permitted by different distribution plans or different service fee arrangements; (ii) voting rights with respect to a distribution plan of a class; (iii) different class designations; (iv) any differences in dividends and net asset value resulting from differences in fees under a distribution or service fee arrangement or in class expenses; (v) any EWC or other sales load structure; and (vi) exchange or conversion privileges of the classes as permitted under the Act.

8. Applicants state that the Fund has adopted a fundamental policy to repurchase a specified percentage of its shares (no less than 5%) at net asset value on a quarterly basis. Such repurchase offers will be conducted pursuant to rule 23c–3 under the Act. Each of the Periodic Repurchase Funds will likewise adopt fundamental investment policies and make periodic repurchase offers to its shareholders in compliance with rule 23c–3 or will provide periodic liquidity with respect to its shares pursuant to rule 13e–4 under the Exchange Act.³ Any repurchase offers made by a Periodic Repurchase Fund will be made to all holders of shares of each such Fund.

9. Applicants represent that any asset-based service and/or distribution fees for each class of shares of the Periodic Repurchase Funds will comply with the provisions of FINRA Rule 2341(d) (“FINRA Sales Charge Rule”).⁴ Applicants also represent that each Periodic Repurchase Fund will disclose in its prospectus the fees, expenses and other characteristics of each class of shares offered for sale by the prospectus, as is required for open-end multiple class funds under Form N–1A. As is required for open-end funds, each Periodic Repurchase Fund will disclose its expenses in shareholder reports, and describe any arrangements that result in breakpoints in or elimination of sales loads in its prospectus.⁵ In addition,

³ Applicants submit that rule 23c–3 and Regulation M under the Exchange Act permit an interval fund to make repurchase offers to repurchase its shares while engaging in a continuous offering of its shares pursuant to Rule 415 under the Securities Act of 1933, as amended.

⁴ Any reference to the FINRA Sales Charge Rule includes any successor or replacement to the FINRA Sales Charge Rule.

⁵ See Shareholder Reports and Quarterly Portfolio Disclosure of Registered Management Investment Companies, Investment Company Act Release No. 26372 (Feb. 27, 2004) (adopting release) (requiring open-end investment companies to disclose fund

applicants will comply with applicable enhanced fee disclosure requirements for fund of funds, including registered funds of hedge funds.⁶

10. Each Periodic Repurchase Fund will comply with any requirements that the Commission or FINRA may adopt regarding disclosure at the point of sale and in transaction confirmations about the costs and conflicts of interest arising out of the distribution of open-end investment company shares, and regarding prospectus disclosure of sales loads and revenue sharing arrangements, as if those requirements applied to each Periodic Repurchase Fund. In addition, each Periodic Repurchase Fund will contractually require that any distributor of the Periodic Repurchase Fund's shares comply with such requirements in connection with the distribution of such Periodic Repurchase Fund's shares.

11. Each Periodic Repurchase Fund will allocate all expenses incurred by it among the various classes of shares based on the net assets of that Periodic Repurchase Fund attributable to each class, except that the net asset value and expenses of each class will reflect the expenses associated with the distribution plan of that class, service fees attributable to that class (if any), including transfer agency fees, and any other incremental expenses of that class. Expenses of a Periodic Repurchase Fund allocated to a particular class of shares will be borne on a pro rata basis by each outstanding share of that class.

Applicants state that each Periodic Repurchase Fund will comply with the provisions of rule 18f-3 under the Act as if it were an open-end investment company.

12. Applicants state that each Periodic Repurchase Fund may impose an EWC on shares submitted for repurchase that have been held less than a specified period and may waive the EWC for certain categories of shareholders or transactions to be established from time to time. Applicants state that each Periodic Repurchase Fund will apply the EWC (and any waivers or scheduled variations, or elimination of the EWC) uniformly to all shareholders in a given class and consistently with the requirements of rule 22d-1 under the

Act as if the Periodic Repurchase Funds were open-end investment companies.

13. Each Periodic Repurchase Fund operating as an interval fund pursuant to rule 23c-3 under the Act may offer its shareholders an exchange feature under which the shareholders of the Periodic Repurchase Fund may, in connection with such Periodic Repurchase Fund's periodic repurchase offers, exchange their shares of the Periodic Repurchase Fund for shares of the same class of (i) registered open-end investment companies or (ii) other registered closed-end investment companies that comply with rule 23c-3 under the Act or rule 13e-4 under the Exchange Act and continuously offer their shares at net asset value, that are in the Periodic Repurchase Fund's group of investment companies (collectively, "Other Funds"). Shares of a Periodic Repurchase Fund operating pursuant to rule 23c-3 that are exchanged for shares of Other Funds will be included as part of the amount of the repurchase offer amount for such Periodic Repurchase Fund as specified in rule 23c-3 under the Act. Any exchange option will comply with rule 11a-3 under the Act, as if the Periodic Repurchase Fund were an open-end investment company subject to rule 11a-3. In complying with rule 11a-3, each Periodic Repurchase Fund will treat an EWC as if it were a contingent deferred sales load ("CDSL").

Applicants' Legal Analysis

Multiple Classes of Shares

1. Section 18(a)(2) of the Act provides that a closed-end investment company may not issue or sell a senior security that is a stock unless certain requirements are met. Applicants state that the creation of multiple classes of shares of the Periodic Repurchase Funds may violate section 18(a)(2) because the Periodic Repurchase Funds may not meet such requirements with respect to a class of shares that may be a senior security.

2. Section 18(c) of the Act provides, in relevant part, that a closed-end investment company may not issue or sell any senior security if, immediately thereafter, the company has outstanding more than one class of senior security. Applicants state that the creation of multiple classes of shares of the Periodic Repurchase Funds may be prohibited by section 18(c), as a class may have priority over another class as to payment of dividends because shareholders of different classes would pay different fees and expenses.

3. Section 18(i) of the Act provides that each share of stock issued by a

registered management investment company will be a voting stock and have equal voting rights with every other outstanding voting stock. Applicants state that multiple classes of shares of the Periodic Repurchase Funds may violate section 18(i) of the Act because each class would be entitled to exclusive voting rights with respect to matters solely related to that class.

4. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction or any class or classes of persons, securities or transactions from any provision of the Act, or from any rule or regulation under the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants request an exemption under section 6(c) from sections 18(a)(2), 18(c) and 18(i) to permit the Periodic Repurchase Funds to issue multiple classes of shares.

5. Applicants submit that the proposed allocation of expenses relating to distribution and voting rights among multiple classes is equitable and will not discriminate against any group or class of shareholders. Applicants submit that the proposed arrangements would permit a Periodic Repurchase Fund to facilitate the distribution of its securities and provide investors with a broader choice of shareholder services.

Applicants assert that the proposed closed-end investment company multiple class structure does not raise the concerns underlying section 18 of the Act to any greater degree than open-end investment companies' multiple class structures that are permitted by rule 18f-3 under the Act. Applicants state that each Periodic Repurchase Fund will comply with the provisions of rule 18f-3 as if it were an open-end investment company.

Early Withdrawal Charges

1. Section 23(c) of the Act provides, in relevant part, that no registered closed-end investment company shall purchase securities of which it is the issuer, except: (a) On a securities exchange or other open market; (b) pursuant to tenders, after reasonable opportunity to submit tenders given to all holders of securities of the class to be purchased; or (c) under other circumstances as the Commission may permit by rules and regulations or orders for the protection of investors.

2. Rule 23c-3 under the Act permits an "interval fund" to make repurchase offers of between five and twenty-five percent of its outstanding shares at net asset value at periodic intervals

expenses in shareholder reports); and Disclosure of Breakpoint Discounts by Mutual Funds, Investment Company Act Release No. 26464 (June 7, 2004) (adopting release) (requiring open-end investment companies to provide prospectus disclosure of certain sales load information).

⁶ Fund of Funds Investments, Investment Company Act Rel. Nos. 26198 (Oct. 1, 2003) (proposing release) and 27399 (Jun. 20, 2006) (adopting release). See also Rules 12d1-1, *et seq.* of the Act.

pursuant to a fundamental policy of the interval fund. Rule 23c-3(b)(1) under the Act permits an interval fund to deduct from repurchase proceeds only a repurchase fee, not to exceed two percent of the proceeds, that is paid to the interval fund and is reasonably intended to compensate the fund for expenses directly related to the repurchase.

3. Section 23(c)(3) provides that the Commission may issue an order that would permit a closed-end investment company to repurchase its shares in circumstances in which the repurchase is made in a manner or on a basis that does not unfairly discriminate against any holders of the class or classes of securities to be purchased.

4. Applicants request relief under section 6(c), discussed above, and section 23(c)(3) from rule 23c-3 to the extent necessary for the Periodic Repurchase Funds to impose EWCs on shares of the Periodic Repurchase Funds submitted for repurchase that have been held for less than a specified period.

5. Applicants state that the EWCs they intend to impose are functionally similar to CDSLs imposed by open-end investment companies under rule 6c-10 under the Act. Rule 6c-10 permits open-end investment companies to impose CDSLs, subject to certain conditions. Applicants note that rule 6c-10 is grounded in policy considerations supporting the employment of CDSLs where there are adequate safeguards for the investor and state that the same policy considerations support imposition of EWCs in the interval fund context. In addition, applicants state that EWCs may be necessary for the distributor to recover distribution costs. Applicants represent that any EWC imposed by the Periodic Repurchase Funds will comply with rule 6c-10 under the Act as if the rule were applicable to closed-end investment companies. The Periodic Repurchase Funds will disclose EWCs in accordance with the requirements of Form N-1A concerning CDSLs.

Asset-Based Distribution and/or Service Fees

1. Section 17(d) of the Act and rule 17d-1 under the Act prohibit an affiliated person of a registered investment company, or an affiliated person of such person, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates unless the Commission issues an order permitting the transaction. In reviewing applications submitted under section

17(d) and rule 17d-1, the Commission considers whether the participation of the investment company in a joint enterprise or joint arrangement is consistent with the provisions, policies and purposes of the Act, and the extent to which the participation is on a basis different from or less advantageous than that of other participants.

2. Rule 17d-3 under the Act provides an exemption from section 17(d) and rule 17d-1 to permit open-end investment companies to enter into distribution arrangements pursuant to rule 12b-1 under the Act. Applicants request an order under section 17(d) and rule 17d-1 under the Act to the extent necessary to permit a Periodic Repurchase Fund to impose asset-based distribution and/or service fees. Applicants have agreed to comply with rules 12b-1 and 17d-3 as if those rules applied to closed-end investment companies, which they believe will resolve any concerns that might arise in connection with a Periodic Repurchase Fund financing the distribution of its shares through asset-based distribution fees.

3. For the reasons stated above, applicants submit that the exemptions requested under section 6(c) are necessary and appropriate in the public interest and are consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants further submit that the relief requested pursuant to section 23(c)(3) will be consistent with the protection of investors and will insure that applicants do not unfairly discriminate against any holders of the class of securities to be purchased. Finally, applicants state that the Periodic Repurchase Funds' imposition of asset-based distribution and/or service fees is consistent with the provisions, policies and purposes of the Act and does not involve participation on a basis different from or less advantageous than that of other participants.

Applicants' Condition

Applicants agree that any order granting the requested relief will be subject to the following condition:

Each Periodic Repurchase Fund relying on the order will comply with the provisions of rules 6c-10, 12b-1, 17d-3, 18f-3, 22d-1, and, where applicable, 11a-3 under the Act, as amended from time to time, as if those rules applied to closed-end management investment companies, and will comply with the FINRA Sales Charge Rule, as amended from time to time, as if that rule applied to all closed-end management investment companies.

For the Commission, by the Division of Investment Management, under delegated authority.

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019-04265 Filed 3-7-19; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-85244; File No. SR-NYSEArca-2018-82]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Approval of a Proposed Rule Change, as Modified by Amendment Nos. 1 and 2, Regarding Certain Changes Relating to Investments of the PGIM Active High Yield Bond ETF

March 4, 2019.

I. Introduction

On November 16, 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 continue to list and trade shares ("Shares") of the PGIM Active High Yield Bond ETF ("Fund"), a series of PGIM ETF Trust ("Trust"), under NYSE Arca Rule 8.600-E. The proposed rule change was published for comment in the **Federal Register** on December 6, 2018.³ On January 17, 2019, 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 disapprove the proposed rule change.⁴ On February 6, 2019, the Exchange filed Amendment No. 1 to the proposed rule change, which replaced and superseded the proposed rule change as originally filed.⁵ On February 21, 2019, the Exchange filed Amendment No. 2 to the proposed rule change, which replaced and superseded the proposed rule change as modified by Amendment No.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 84696 (Nov. 30, 2018), 83 FR 62915.

⁴ See Securities Exchange Act Release No. 84987, 84 FR 0855 (Jan. 31, 2019). The Commission designated March 6, 2019, as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change.

⁵ Amendment No. 1 to the proposed rule change is available at: <https://www.sec.gov/comments/sr-nysearca-2018-82/srnysearca201882-4891452-177603.pdf>.

1.⁶ The Commission has received no comments on the proposal. This order grants approval of the proposed rule change, as modified by Amendment Nos. 1 and 2.

II. Description of the Proposal, as Modified by Amendment Nos. 1 and 2⁷

The Trust is registered under the 1940 Act.⁸ The Shares⁹ are currently listed and traded on the Exchange under Commentary .01 to NYSE Arca Rule 8.600–E,¹⁰ which provides generic criteria applicable to the listing and trading of Managed Fund Shares.¹¹

⁶ In Amendment No. 2, which replaced and superseded the proposed rule change as modified by Amendment No. 1, the Exchange: (1) Provided additional information regarding certain of the Fund's permitted investments; (2) changed references to "affiliated short-term bond funds" to the "Affiliated Short Term Bond Fund"; (3) added as permitted "Non-Principal Investments" repurchase agreements and reverse repurchase agreements other than those included as cash equivalents under Commentary .01(c) to NYSE Arca Rule 8.600–E; (4) clarified that the Fund's investments will be consistent with the Fund's investment objective and will not be used to enhance leverage; (5) described the availability of price information for certain of the Fund's permitted investments; (6) specified when the NAV for the Shares will be calculated and disseminated; and (7) made changes of a technical nature. Because Amendment No. 2 does not materially alter the substance of the proposed rule change or raise unique or novel regulatory issues under the Act, Amendment No. 2 is not subject to notice and comment. Amendment No. 2 to the proposed rule change is available at: <https://www.sec.gov/comments/sr-nysearca-2018-82/srnysearca201882-4962016-178627.pdf>.

⁷ Additional information regarding, among other things, the Shares, the Fund, investment objective, permitted investments, investment restrictions, investment adviser and subadviser, creation and redemption procedures, availability of information, trading halts and rules, and surveillance procedures can be found in Amendment No. 2 and in the Registration Statement. See Amendment No. 2, *supra* note 6, and Registration Statement, *infra* note 8, respectively.

⁸ On June 28, 2018, the Trust filed with the Commission an amendment to its registration statement on Form N–1A under the Securities Act of 1933 (15 U.S.C. 77a) ("Securities Act"), and under the 1940 Act relating to the Fund (File Nos. 333–222469 and 811–23324) ("Registration Statement"). The Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. See Investment Company Act Release No. 31095 (Jun. 24, 2014) (File No. 812–14267).

⁹ The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities.

¹⁰ The Shares commenced trading on the Exchange on April 10, 2018. See Amendment No. 2, *supra* note 6, at 4, n.1.

¹¹ A Managed Fund Share is a security that: (1) Represents an interest in a registered investment company ("Investment Company") organized as an open-end management investment company or similar entity, that invests in a portfolio of securities selected by the Investment Company's investment adviser consistent with the Investment Company's investment objectives and policies; (b) is issued in a specified aggregate minimum number in return for a deposit of a specified portfolio of securities and/or a cash amount with a value equal

However, the Fund intends to change its investment strategy such that the Shares would no longer qualify for generic listing on the Exchange. Specifically, the Fund's portfolio would continue to satisfy all of the generic listing requirements except that:

- Investments in non-agency, non-government sponsored entity and privately issued mortgage-related and other asset-backed securities ("Private ABS/MBS") may account for up to 20% of the total assets of the Fund (rather than 20% of the weight of the fixed income portion of the portfolio, as required under Commentary .01(b)(5));
- fixed income securities that do not meet any of the criteria in Commentary .01(b)(4) will not exceed 10% of the total assets of the Fund (rather than such securities not comprising more than 10% of the fixed income weight of the portfolio, as prescribed by that criterion);
- the Fund's investments in shares of the Affiliated Short Term Bond Fund¹² and other non-exchange-traded open-end management investment company securities would not meet the requirements of Commentary .01(a)(1)(A) through (E) to Rule 8.600–E,¹³
- the Fund's investments in convertible and non-convertible preferred stocks, warrants, and Work Out Securities¹⁴ may account for up to 10% of the Fund's assets in the aggregate, and would not meet the requirements of Commentary .01(a)(1) to NYSE Arca Rule 8.600–E and/or Commentary .01(a)(2) to NYSE Arca

to the next determined net asset value; and (c) when aggregated in the same specified minimum number, may be redeemed at a holder's request, which holder will be paid a specified portfolio of securities and/or cash with a value equal to the next determined net asset value. See NYSE Arca Rule 8.600–E(c)(1).

¹² Shares of the "Affiliated Short Term Bond Fund" are shares of the PGIM Core Ultra Short Bond Fund or, if the PGIM Core Ultra Short Bond Fund is no longer offered with the same investment objective, shares of any successor fund or other affiliated open-end investment company registered under the 1940 Act with a substantially similar investment objective. See Amendment No. 2, *supra* note 6, at 6–7.

¹³ Investments in shares of the Affiliated Short Term Bond Fund will not exceed 25% of the total assets of the Fund, and investments in other non-exchange-traded open-end management investment company securities will not exceed 10% of the total assets of the Fund. See *id.* at 9.

¹⁴ For purposes of this proposed rule change, Work Out Securities include U.S. or foreign equity securities of any type acquired in connection with restructurings or incidental to the purchase or ownership related to issuers of Principal Investment Instruments held by the Fund. Work Out Securities are generally traded over-the-counter ("OTC"), but may be traded on a U.S. or foreign exchange. See *id.* at 8. The term "Principal Investment Instruments" is defined in Amendment No. 2, *supra* note 6, at 6.

Rule 8.600–E with respect to the Fund's equity securities holdings.

According to the Exchange, these deviations from the generic requirements are necessary for the Fund to achieve its investment objective in a manner that is cost-effective and that maximizes investors' returns.¹⁵

III. Discussion and Commission Findings

After careful review, the Commission finds that the Exchange's proposal to list and trade the Shares, as modified by Amendment Nos. 1 and 2, is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.¹⁶ In particular, the Commission finds that the proposed rule change, as modified by Amendment Nos. 1 and 2, is consistent with Section 6(b)(5) of the Act,¹⁷ which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. As mentioned above, the Fund's portfolio would continue to meet all of the generic listing criteria except for the requirements of: (1) Commentary .01(a)(1)¹⁸ and/or Commentary

¹⁵ See *id.* at 14.

¹⁶ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹⁷ 15 U.S.C. 78f(b)(5).

¹⁸ Commentary .01(a)(1) to Rule 8.600–E provides that the component stocks of the equity portion of a portfolio that are U.S. Component Stocks shall meet the following criteria initially and on a continuing basis: (A) Component stocks (excluding Derivative Securities Products and Index-Linked Securities) that in the aggregate account for at least 90% of the equity weight of the portfolio (excluding such Derivative Securities Products and Index-Linked Securities) each shall have a minimum market value of at least \$75 million; (B) Component stocks (excluding Derivative Securities Products and Index-Linked Securities) that in the aggregate account for at least 70% of the equity weight of the portfolio (excluding such Derivative Securities Products and Index-Linked Securities) each shall have a 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; (C) The most heavily weighted component stock (excluding Derivative Securities Products and Index-Linked Securities) shall not exceed 30% of the equity weight of the portfolio, and, to the extent applicable, the five most heavily weighted component stocks (excluding Derivative Securities Products and Index-Linked Securities) shall not exceed 65% of the equity weight of the portfolio; (D) Where the equity portion of the portfolio does not include Non-U.S. Component Stocks, the equity portion of the portfolio shall include a minimum of 13 component stocks; provided, however, that there shall be no minimum

.01(a)(2)¹⁹ to Rule 8.600–E; (2) Commentary .01(a)(1)(A) through (E) to NYSE Arca Rule 8.600–E;²⁰ (3) Commentary .01(b)(4) to NYSE Arca Rule 8.600–E;²¹ and (4) Commentary .01(b)(5) to NYSE Arca Rule 8.600–E.²² The Commission believes that the Fund’s proposed maximum level of investment in private ABS/MBS is

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; (E) Except as provided herein, equity securities in the portfolio shall be U.S. Component Stocks listed on a national securities exchange and shall be NMS Stocks as defined in Rule 600 of Regulation NMS under the Securities Exchange Act of 1934; and (F) American Depositary Receipts (“ADRs”) in a portfolio may be exchange-traded or non-exchange-traded. However, no more than 10% of the equity weight of a portfolio shall consist of non-exchange-traded ADRs.

¹⁹ Commentary .01(a)(2) to Rule 8.600–E provides that the component stocks of the equity portion of a portfolio that are Non-U.S. Component Stocks shall meet the following criteria initially and on a continuing basis: (A) Non-U.S. Component Stocks each shall have a minimum market value of at least \$100 million; (B) 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; (C) The most heavily weighted Non-U.S. Component stock shall 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 shall not exceed 60% of the equity weight of the portfolio; (D) Where the equity portion of the portfolio includes Non-U.S. Component Stocks, the equity portion of the portfolio shall 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; and (E) Each Non-U.S. Component Stock shall be listed and traded on an exchange that has last-sale reporting.

²⁰ See *supra* note 18.

²¹ Commentary .01(b)(4) provides that component securities that in the aggregate account for at least 90% of the fixed income weight of the portfolio must be either: (a) From issuers that are required to file reports pursuant to Sections 13 and 15(d) of the Act; (b) from issuers that have a worldwide market value of its outstanding common equity held by non-affiliates of \$700 million or more; (c) from issuers that have outstanding securities that are notes, bonds debentures, or evidence of indebtedness having a total remaining principal amount of at least \$1 billion; (d) exempted securities as defined in Section 3(a)(12) of the Act; or (e) from issuers that are a government of a foreign country or a political subdivision of a foreign country.

²² Commentary .01(b)(5) to NYSE Arca Rule 8.600–E provides that non-agency, non-government sponsored entity and privately issued mortgage-related and other asset-backed securities components of a portfolio may not account, in the aggregate, for more than 20% of the weight of the fixed income portion of the portfolio.

consistent with the Commission’s previous approval of the listing of shares of other actively managed ETFs that could invest up to 20% of their total assets in non-U.S. Government, non-agency, non-GSE and other privately issued ABS and MBS.²³

With respect to the Fund’s investments in shares of the “Affiliated Short Term Bond Fund” and other non-exchange traded open-end management investment company securities, the Commission notes that: (1) Such securities must satisfy applicable 1940 Act diversification requirements; and (2) the value of such securities is based on the value of securities and financial assets held by those investment companies.²⁴ The Commission therefore believes that the Fund’s investments in shares of the Affiliated Short Term Bond Fund and non-exchange-traded open-end management investment company securities²⁵ would not make the Shares susceptible to fraudulent or manipulative acts and practices. Similarly, the Commission believes that the level of investment by the Fund in securities that do not satisfy the requirements of Commentary .01(b)(4) to NYSE Arca Rule 8.600–E, and Commentary .01(a)(1) to NYSE Arca Rule 8.600–E and/or Commentary .01(a)(2) to NYSE Arca Rule 8.600–E—*i.e.*, no more than 10% of the Fund’s total assets—would not make the Shares susceptible to fraudulent or manipulative acts and practices.

The Exchange states that it has a general policy prohibiting the distribution of material, non-public information by its employees. The Exchange represents that the Fund’s Adviser and Subadviser are not registered as broker-dealers, but the Adviser and Subadviser are affiliated with the Fund’s Distributor, which is a broker-dealer, and have implemented and will maintain a “fire wall” with respect to such broker-dealer regarding access to information concerning the composition and/or changes to the Fund’s portfolio.²⁶

²³ See, *e.g.*, Securities Exchange Act Release No. 80946 (Jun. 15, 2017) 82 FR 28126 (Jun. 20, 2017) (SR–NASDAQ–2017–039); Securities Exchange Act Release No. 76412 (Nov. 10, 2015), 80 FR 71880 (Nov. 17, 2015) (SR–NYSEArca–2015–111).

²⁴ See Amendment No. 2, *supra* note 6, at 17.

²⁵ See *supra* note 13.

²⁶ See Amendment No. 2, *supra* note 6, at 5. Additionally, the Exchange represents that, in the event (a) the Adviser or the Subadviser becomes registered as a broker-dealer or newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement and maintain a “fire wall” with respect to its relevant personnel or broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio, and

Trading in the Shares will be subject to the existing trading surveillances administered by the Exchange, as well as cross-market surveillances administered by Financial Industry Regulatory Authority (“FINRA”) on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws. The Exchange, or FINRA, or both, may obtain information regarding trading in the Shares, ETFs, certain exchange-traded options and certain futures from markets and other entities that are members of Intermarket Surveillance Group (“ISG”) or with which the Exchange has in place a comprehensive surveillance sharing agreement. The Exchange is able to access from FINRA, as needed, trade information for certain fixed income securities held by the Fund reported to the Trade Reporting and Compliance Engine (“TRACE”) of FINRA. FINRA also can access data obtained from the Municipal Securities Rulemaking Board relating to certain municipal bond trading activity for surveillance purposes in connection with trading in the Shares.

The Commission also finds that the proposal to list and trade the Shares on the Exchange is consistent with Section 11A(a)(1)(C)(iii) of the Exchange Act,²⁷ which sets forth Congress’ finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities. Quotation and last sale information for the Shares, ETFs, and U.S. exchange-listed Work Out Securities, convertible and non-convertible securities, warrants, and preferred securities will be available via the Consolidated Tape Association (“CTA”) high-speed line. Intraday price quotations will generally be available from broker-dealers and major market data vendors for OTC Work Out Securities, OTC convertible and non-convertible securities, OTC warrants, and OTC preferred securities. Exchange-traded options quotation and last sale information for options cleared via the Options Clearing Corporation are available via the Options Price Reporting Authority. In addition, the Portfolio Indicative Value, as defined in NYSE Arca Rule 8.600–E(c)(3), will be widely disseminated by one or more

will be subject to procedures, each designed to prevent the use and dissemination of material non-public information regarding such portfolio. See *id.*

²⁷ 15 U.S.C. 78k–1(a)(1)(C)(iii).

major market data vendors at least every 15 seconds during the Core Trading Session.

Intra-day and closing price information regarding futures, exchange-traded options, exchange-traded swaps and exchange-traded Work Out Securities will be available from the exchanges on which such instruments are traded. Intra-day and closing price information regarding the Principal Investment Instruments²⁸ will be available from major market data vendors. Price information relating to forwards, OTC options and swaps, OTC Work Out Securities, OTC convertible and non-convertible securities, OTC warrants, and OTC preferred securities will also be available from major market data vendors. Intra-day and closing price information for exchange-traded derivative instruments will be available from the applicable exchange and from major market data vendors. For exchange-listed securities (including ETFs), intraday price quotations will generally be available from broker-dealers and trading platforms (as applicable). Intraday and other price information for the fixed income securities in which the Fund invests will be available through subscription services, such as Bloomberg, Markit and Thomson Reuters, which can be accessed by Authorized Participants and other market participants. Additionally, TRACE will be a source of price information for corporate bonds, privately-issued securities, MBS and ABS, to the extent transactions in such securities are reported to TRACE.²⁹ Money Market Funds and the Affiliated Short Term Bond Fund are typically priced once each Business Day and their prices will be available through the applicable fund's website or from major market data vendors. Electronic Municipal Market Access ("EMMA") will be a source of price information for municipal bonds. Price information regarding U.S. government securities, repurchase agreements, reverse repurchase agreements and cash equivalents generally may be obtained from brokers and dealers who make markets in such securities or through

nationally recognized pricing services through subscription agreements.

The Commission believes that the proposal to list and trade the Shares is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately and to prevent trading when a reasonable degree of transparency cannot be assured. On each Business Day, before commencement of trading in Shares in the Core Trading Session on the Exchange,³⁰ the Fund discloses on its website the Disclosed Portfolio as defined in NYSE Arca Rule 8.600–E(c)(2) that forms the basis for the Fund's calculation of the net asset value ("NAV") at the end of the Business Day.³¹ The Exchange has obtained a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time.

In addition, the Portfolio Indicative Value, as defined in NYSE Arca Rule 8.600–E(c)(3), will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Core Trading Session. The Transfer Agent, through the National Securities Clearing Corporation, makes available on each Business Day, immediately prior to the opening of business on the Exchange (currently 9:30 a.m. E.T.), the list of the names and the required number of securities for each Deposit Instrument to be included in the current Portfolio Deposit (based on information at the end of the previous Business Day), as well as information regarding the Cash Amount for the Fund. Such Portfolio Deposit is applicable, subject to any adjustments as described below, in order to effect creations of Creation Units of the Fund until such time as the next-announced Portfolio Deposit composition is made available.

The Exchange represents that trading in Shares will be halted if the circuit breaker parameters in NYSE Arca Rule 7.12–E have been reached. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable.³² NYSE Arca

Rule 8.600–E(d)(2)(D) also sets forth circumstances under which trading in the Shares may be halted.

In support of this proposal, the Exchange has also made the following representations:

(1) The Shares will be subject to NYSE Arca Rule 8.600–E, which sets forth the initial and continued listing criteria applicable to Managed Fund Shares.³³

(2) All statements and representations made in this filing regarding (a) the description of the portfolio, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange listing rules specified in this rule filing shall constitute continued listing requirements for listing the Shares on the Exchange.³⁴

(3) The issuer will advise the Exchange of any failure by the Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements. If the Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Rule 5.5(m)–E.³⁵

(4) The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions.³⁶

(5) The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.³⁷

(6) For initial and continued listing, the Fund will be in compliance with Rule 10A–3 under the Act, as provided by NYSE Arca Rule 5.3–E.³⁸

(7) A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange.³⁹

(8) Investments in shares of the Affiliated Short Term Bond Fund will not exceed 25% of the total assets of the Fund.⁴⁰

(9) Investments in non-exchange-traded open-end management investment company securities will not

financial instruments comprising the Disclosed Portfolio of the Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. See Amendment No. 2, *supra* note 6, at 22.

³³ See *id.*

³⁴ See *id.* at 23.

³⁵ See *id.*

³⁶ See *id.* at 22.

³⁷ See *id.* at 22–23.

³⁸ See *id.* at 22. See also 17 CFR 240.10A–3.

³⁹ See Amendment No. 2, *supra* note 6, at 22.

⁴⁰ See *id.* at 16.

²⁸ See *supra* note 14.

²⁹ Broker-dealers that are FINRA member firms have an obligation to report transactions in specified debt securities to TRACE to the extent required under applicable FINRA rules. Generally, such debt securities will have at issuance a maturity that exceeds one calendar year. For fixed income securities that are not reported to TRACE, (i) intraday price quotations will generally be available from broker-dealers and trading platforms (as applicable) and (ii) price information will be available from feeds from market data vendors, published or other public sources, or online information services, as described above.

³⁰ The "Core Trading Session" is defined in NYSE Arca Rule 7.34–E(a)(2).

³¹ Under accounting procedures followed by the Fund, trades made on the prior Business Day ("T") will be booked and reflected in NAV on the current Business Day ("T+1"). Accordingly, the Fund will be able to disclose at the beginning of the Business Day the portfolio that will form the basis for the NAV calculation at the end of the Business Day.

³² These may include: (1) The extent to which trading is not occurring in the securities and/or the

exceed 10% of the total assets of the Fund.⁴¹

(10) Investments in private ABS/MBS will, in the aggregate, not exceed more than 20% of the total assets of the Fund.⁴²

(11) Fixed income securities that do not meet any of the criteria in Commentary .01(b)(4) to NYSE Arca Rule 8.600-E will not exceed 10% of the total assets of the Fund.⁴³

(12) Not more than 10% of the Fund's assets in the aggregate will be held in convertible and non-convertible preferred stocks, warrants and Work Out Securities.⁴⁴

This approval order is based on all of the Exchange's representations, including those set forth above and in Amendment Nos. 1 and 2.

For the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendment Nos. 1 and 2, is consistent with Section 6(b)(5) of the Act⁴⁵ and the rules and regulations thereunder applicable to a national securities exchange.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁴⁶ that the proposed rule change (SR-NYSEArca-2018-82), as modified by Amendment Nos. 1 and 2, be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁴⁷

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019-04172 Filed 3-7-19; 8:45 am]

BILLING CODE 8011-01-P

DEPARTMENT OF STATE

[Public Notice: 10696]

Notice of Determinations; Culturally Significant Object Imported for Exhibition—Determinations: “The American Pre-Raphaelites: Radical Realists” Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that a certain object to be included in the exhibition “The American Pre-Raphaelites: Radical Realists,” imported from abroad for temporary exhibition within the United States, is of cultural significance. The

object is imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit object at the National Gallery of Art, Washington, District of Columbia, from on or about April 14, 2019, until on or about July 21, 2019, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Elliot Chiu, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202-632-6471; email: section2459@state.gov). The mailing address is U.S. Department of State, L/PD, SA-5, Suite 5H03, Washington, DC 20522-0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236-3 of August 28, 2000.

Marie Therese Porter Royce,

Assistant Secretary, Educational and Cultural Affairs, Department of State.

[FR Doc. 2019-04174 Filed 3-7-19; 8:45 am]

BILLING CODE 4710-05-P

DEPARTMENT OF STATE

[Public Notice 10567]

60-Day Notice of Proposed Information Collection: Visitor Access Control System Domestic

ACTION: Notice of request for public comment.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this notice is to allow 60 days for public comment preceding submission of the collection to OMB.

DATES: The Department will accept comments from the public up to *May 7, 2019*.

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

- *Web:* Persons with access to the internet may comment on this notice by going to www.Regulations.gov. You can search for the document by entering “Docket Number: DOS-2018-0047” in the Search field. Then click the “Comment Now” button and complete the comment form.

- *Email:* idservicescsc@state.gov.

- *Regular Mail:* Send written comments to: DS/DO/DFP—2201 C Street NW, Washington, DC 22052, Room B237.

You must include the DS form number (if applicable), information collection title, and the OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Systems Operations, 2201 C Street NW, Washington DC 22052, Room B237, attention John Ferguson, who may be reached on 202-647-3854 or at fergusonjm3@state.gov.

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Visitor Access Control System Domestic.

- *OMB Control Number:* None.

- *Type of Request:* New collection.

- *Originating Office:* DS/DO/DFP/SSD.

- *Form Number:* No Form number.

- *Respondents:* Visitors requesting access to Department facilities.

- *Estimated Number of Respondents:* 161,594.

- *Estimated Number of Responses:* 161,594.

- *Average Time per Response:* 2 minutes.

- *Total Estimated Burden Time:* 323,188 minutes.

- *Frequency:* Annually.

- *Obligation to Respond:* Mandatory.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.

- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.

- Enhance the quality, utility, and clarity of the information to be collected.

- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public

⁴¹ See *id.*

⁴² See *id.* at 15.

⁴³ See *id.*

⁴⁴ See *id.* at 19.

⁴⁵ 15 U.S.C. 78f(b)(5).

⁴⁶ 15 U.S.C. 78s(b)(2).

⁴⁷ 17 CFR 200.30-3(a)(12).

record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

The Visitor Access Control System Domestic (VACS-D) supports the Office of Domestic Facilities Protection's (DS/DO/DFP) mission requirements to provide a secure environment for Department employees and visitors. Visitors to the Department seeking access to facilities will be the respondents if access is to be granted. The legal authority for the collection of information is the same as that which established the Bureau of Diplomatic Security: The Omnibus Diplomatic Security and Antiterrorism Act of 1986 (Pub. L. 99-399; 22 U.S.C. 4801, *et seq.* (a986) as amended.

Methodology

Information will be collected electronically at the time of visit.

Timothy Thomas,

Division Chief, Diplomatic Security, Office of Domestic Facilities Protection, Department of State.

[FR Doc. 2019-04264 Filed 3-7-19; 8:45 am]

BILLING CODE 4710-43-P

DEPARTMENT OF STATE

[Public Notice 10640]

60-Day Notice of Proposed Information Collection: Disclosure of Violations of the Arms Export Control Act

ACTION: Notice of request for public comment.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this notice is to allow 60 days for public comment preceding submission of the collection to OMB.

DATES: The Department will accept comments from the public up to May 7, 2019.

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

- *Web:* Persons with access to the internet may comment on this notice by going to www.Regulations.gov. You can search for the document by entering "Docket Number: DOS-2018-0060" in the Search field. Then click the

"Comment Now" button and complete the comment form.

- *Email:* DDTCPublicComments@state.gov.

- *Regular Mail:* Send written comments to: Directorate of Defense Trade Controls, Department of State; 2401 E St. NW, Suite H1205, Washington, DC 20522.

You must include the DS form number, information collection title, and the OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT:

Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Andrea Battista, Directorate of Defense Trade Controls, Department of State, who may be reached at battistaAL@state.gov.

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Disclosure of Violations of the Arms Export Control Act.
- *OMB Control Number:* 1405-0179.
- *Type of Request:* Revision of a Currently Approved Collection.
- *Originating Office:* T/PM/DDTC.
- *Form Number:* DS-7787.
- *Respondents:* Individuals and companies engaged in the business of exporting or temporarily importing defense hardware or defense technology data who have committed an ITAR violation.
- *Estimated Number of Respondents:* 12,500.
- *Estimated Number of Responses:* 700.
- *Average Time per Response:* 10 hours.
- *Total Estimated Burden Time:* 7,000 hours.
- *Frequency:* On occasion.
- *Obligation to Respond:* Voluntary.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public

record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

The Directorate of Defense Trade Controls (DDTC), located in the Political-Military Affairs Bureau of the Department of State, encourages voluntary disclosures of violations of the Arms Export Control Act (AECA) (22 U.S.C. 2751 *et seq.*), its implementing regulations, the International Traffic in Arms Regulations (ITAR) (22 CFR 120-130), and any regulation, order, license, or other authorization issued thereunder. The information disclosed is analyzed by DDTC to ultimately determine whether to take administrative action concerning any violation that may have occurred.

Voluntary disclosure may be considered a mitigating factor in determining the administrative penalties, if any, that may be imposed. Failure to report a violation may result in circumstances detrimental to the U.S. national security and foreign policy interests and will be an adverse factor in determining the appropriate disposition of such violations. Also, the activity in question might merit referral to the Department of Justice for consideration of whether criminal prosecution is warranted. In such cases, DDTC will notify the Department of Justice of the voluntary nature of the disclosure, but the Department of Justice is not required to give that fact any weight.

ITAR § 127.12 enunciates the information which should accompany a voluntary disclosure. Historically, respondents to this information collection submitted their disclosures to DDTC in writing via hard copy documentation. However, as part of an IT modernization project designed to streamline the collection and use of information by DDTC, a discrete form has been developed for the submission of voluntary disclosures. This will allow both DDTC and respondents submitting a disclosure to more easily track submissions.

Methodology

This information will be collected by electronic submission.

Anthony Dearth,

Chief of Staff, Directorate of Defense Trade Controls, Department of State.

[FR Doc. 2019-04263 Filed 3-7-19; 8:45 am]

BILLING CODE 4710-25-P

STATE JUSTICE INSTITUTE**SJI Board of Directors Meeting, Notice****AGENCY:** State Justice Institute.**ACTION:** Notice of meeting.

SUMMARY: The SJI Board of Directors will be meeting on Monday, April 1, 2019 at 1:00 p.m. The meeting will be held at the National Center for State Courts Headquarters in Williamsburg, Virginia. The purpose of this meeting is to consider grant applications for the 2nd quarter of FY 2019, and other business. All portions of this meeting are open to the public.

ADDRESSES: National Center for State Courts Headquarters, 300 Newport Drive, Williamsburg, Virginia, 23185.

FOR FURTHER INFORMATION CONTACT: Jonathan Mattiello, Executive Director, State Justice Institute, 11951 Freedom Drive, Suite 1020, Reston, VA 20190, 571-313-8843, contact@sjj.gov.

Jonathan D. Mattiello,
Executive Director.

[FR Doc. 2019-04267 Filed 3-7-19; 8:45 am]

BILLING CODE P**SURFACE TRANSPORTATION BOARD**

[Docket No. FD 36262]

Lake State Railway Company—Lease Exemption With Interchange Commitment—Line of CSX Transportation, Inc.

Lake State Railway Company (LSRC), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to lease a line of railroad owned by CSXT Transportation, Inc. (CSXT), located in the State of Michigan (the Line). The Line, which LSRC refers to as the Plymouth Line, extends from milepost CC 25.98 at Mount Morris, Mich., to approximately milepost CC 78.9 at Middle River (Plymouth), Mich., a distance of approximately 52.92 miles.

In the verified notice, LSRC states that LSRC and CSXT will execute a Land and Rail Improvements Lease Agreement and a related Amended and Restated Freight Operating Agreement providing for LSRC's lease and operation of the Line. According to LSRC, CSXT will retain overhead trackage rights on the portion of the Line extending between McGrew Yard at or near milepost CC 29 and the connection with Grand Trunk Western Railroad Company (GTW) at or near milepost CC 33.¹ Additionally, LSRC

states that it will provide haulage service for CSXT between Flint and Plymouth, and that CSXT will separately retain contingent overhead trackage rights on the Line between Flint and Middle River that can be exercised by CSXT in the future, upon the occurrence of certain events, in lieu of LSRC haulage service.

LSRC certifies that its projected revenues resulting from this transaction will not result in the creation of a Class I or Class II rail carrier but it states that its annual revenues exceed \$5 million. Accordingly, LSRC is required by Board regulations to send notice of the transaction to the national offices of the labor unions with employees on the affected lines, post a copy of the notice at the workplace of the employees on the affected lines, and certify to the Board that it has done so, at least 60 days before the exemption is to become effective. 49 CFR 1150.42(e). LSRC filed its certification on January 28, 2019.²

LSRC has disclosed in its verified notice that its lease agreement with CSXT contains an interchange commitment that assesses LSRC an additional per carload rental fee for traffic that originates or terminates on the Line and is not interchanged with CSXT.³ LSRC has provided additional information regarding the interchange commitment as required by 49 CFR 1150.43(h).

The transaction may be consummated on or after March 29, 2019.⁴

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions to stay must be filed no later than March 22, 2019 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD

existing trackage rights over GTW's rail line between Flint, Mich., and Port Huron, Mich. See *CSX Transp.—Trackage Rights Exemption—Grand Trunk W. R.R.*, FD 31386 (ICC served Mar. 31, 1989).

² LSRC states that it electronically submitted its certification to the Board on January 11, 2019. However, because of the partial shutdown of the Federal government, the certification is considered filed on January 28, 2019. See *Filings Submitted or Due to Be Submitted During the Partial Fed. Gov't Shutdown*, EP 751 (STB served Jan. 28, 2019).

³ LSRC filed under seal copies of the parties' agreements with its verified notice of exemption. See 49 CFR 1150.43(h)(1).

⁴ Although 49 CFR 1150.42(b) provides that the exemption will be effective 30 days after the verified notice is filed, the transaction may not be consummated until 60 days after LSRC certified its compliance with 49 CFR 1150.42(e).

36262, must be filed with the Surface Transportation Board, 395 E Street SW, Washington, DC 20423-0001. In addition, a copy of each pleading must be served on LSRC's representative, Thomas J. Litwiler, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606.

According to LSRC, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic reporting under 49 CFR 1105.8(b).

Board decisions and notices are available at www.stb.gov.

Decided: March 5, 2019.

By the Board, Allison C. Davis, Acting Director, Office of Proceedings.

Jeffrey Herzig,*Clearance Clerk.*

[FR Doc. 2019-04287 Filed 3-7-19; 8:45 am]

BILLING CODE 4915-01-P**DEPARTMENT OF TRANSPORTATION****Federal Highway Administration****Notice of Final Federal Agency Actions on Proposed Highway in Utah**

AGENCY: Utah Department of Transportation (UDOT), Federal Highway Administration (FHWA), Department of Transportation.

ACTION: Notice of limitation on claims for judicial review of actions taken by UDOT on behalf of FHWA.

SUMMARY: This notice announces certain actions taken by UDOT that are final Federal agency actions. These actions relate to a proposed highway project on Interstate 15 (I-15) at and in the vicinity of the Payson Main Street Interchange (exit 250) in the County of Utah, State of Utah. Those actions grant licenses, permits and/or approvals for the project.

DATES: By this notice, the FHWA, on behalf of UDOT, is advising the public of final Federal agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before August 5, 2019. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: Naomi Kisen, Environmental Program Manager, UDOT Environmental Services, PO Box 143600, Salt Lake City, UT 84114; telephone: (801) 965-4005; email: nkisen@utah.gov. UDOT's normal business hours are 8:00 a.m. to 5:00 p.m. (Mountain Standard Time), Monday

¹ According to LSRC, CSXT will utilize its overhead trackage rights in connection with its

through Friday, except State and Federal holidays.

SUPPLEMENTARY INFORMATION: Effective January 17, 2017, FHWA assigned to UDOT certain responsibilities of FHWA for environmental review, consultation, and other actions required by applicable Federal environmental laws and regulations for highway projects in Utah, pursuant to 23 U.S.C. 327. Actions taken by UDOT on FHWA's behalf pursuant to 23 U.S.C. 327 constitute Federal agency actions for purposes of Federal law. Notice is hereby given that UDOT has taken final agency actions subject to 23 U.S.C. 139(l)(1) by issuing licenses, permits, and approvals for the I-15; Payson Main Street Interchange project in the State of Utah. This project proposes to address current and future travel demand and improve safety at the Payson Main Street Interchange. The project includes reconfiguring the Main Street Interchange to increase capacity and realigning Main Street to connect to 900 North. A new interchange would be constructed northeast of the existing Main Street Interchange, connecting Nebo Beltway to I-15. Nebo Beltway—a new five lane arterial road—would connect I-15 to Main Street (SR-115) and SR-198. Braided ramps (*i.e.*, ramps that cross over each other) would connect the Main Street and Nebo Beltway interchanges. Finally, the railroad west of I-15 would be realigned to accommodate interchange improvements and provide grade separation at surface streets. These improvements were identified in the Environmental Impact Statement (EIS) as Alternative C1. The actions by UDOT, and the laws under which such actions were taken, are described in the EIS and UDOT Record of Decision (ROD) for the project (Record of Decision, Environmental Impact Statement, 1-15; Payson Main Street Interchange in Utah County, Utah, Project No. F-I15-6(214)251), issued on February 8, 2019, and in other documents in the UDOT project records. The EIS and ROD, and other project records are available by contacting UDOT at the address provided above. The EIS and ROD can also be viewed and downloaded from the project website at <https://www.udot.utah.gov/paysoneis/index.php>.

This notice applies to the EIS, the ROD, the Section 4(f) determination, the NHPA Section 106 review, the noise assessment, the Endangered Species Act determination, and all other UDOT decisions and other actions with respect to the project as of the issuance date of this notice and all laws under which such actions were taken, including but

not limited to the following laws (including their implementing regulations):

1. *General:* National Environmental Policy Act, 42 U.S.C. 4321-4351; Federal-Aid Highway Act, 23 U.S.C. 109 and 23 U.S.C. 128.

2. *Air:* Clean Air Act, 42 U.S.C. 7401-7671q.

3. *Land:* Section 4(f) of the Department of Transportation Act of 1966, 49 U.S.C. 303; 23 U.S.C. 138; Landscaping and Scenic Enhancement (Wildflowers), 23 U.S.C. 319.

4. *Wildlife:* Endangered Species Act, 16 U.S.C. 1531-1544 and Section 1536; Fish and Wildlife Coordination Act, 16 U.S.C. 661-667d; Migratory Bird Treaty Act, 16 U.S.C. 703-712.

5. *Water:* Section 404 of the Clean Water Act, 33 U.S.C. 1344; E.O. 11990, Protection of Wetlands; Section 402 of the Clean Water Act, 33 U.S.C. 1342.

6. *Historic and Cultural Resources:* Section 106 of the National Historic Preservation Act of 1966, 16 U.S.C. 470f; Archeological Resources Protection Act of 1977, 16 U.S.C. 470aa-470mm; Archeological and Historic Preservation Act, 16 U.S.C. 469-469c.

7. *Noise:* Federal-Aid Highway Act of 1970, Public Law 91-605, 84 Stat. 1713.

8. *Executive Orders:* E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13287 Preserve America; E.O. 12898, Federal Actions to Address Environmental Justice and Low-Income Populations.

Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(l)(1).

Issued on: Dated: March 1, 2019.

Ivan Marrero,

Division Administrator, Federal Highway Administration, Salt Lake City, Utah.

[FR Doc. 2019-04229 Filed 3-7-19; 8:45 am]

BILLING CODE 4910-RY-P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. FHWA-2019-0001]

Surface Transportation Project Delivery Program; Ohio Department of Transportation Audit Report

AGENCY: Federal Highway Administration (FHWA), U.S. Department of Transportation (DOT).

ACTION: Notice; request for comment.

SUMMARY: The Moving Ahead for Progress in the 21st Century Act (MAP-21) established the Surface Transportation Project Delivery Program that allows a State to assume FHWA's environmental responsibilities for environmental review, consultation, and compliance under the National Environmental Policy Act (NEPA) for Federal highway projects. When a State assumes these Federal responsibilities, the State becomes solely responsible and liable for carrying out the responsibilities it has assumed, in lieu of FHWA. This program mandates annual audits during each of the first 4 years of State participation to ensure compliance with program requirements. This notice announces and solicits comments on the third audit report for the Ohio Department of Transportation (ODOT).

DATES: Comments must be received on or before April 8, 2019.

ADDRESSES: Mail or hand deliver comments to Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue SE., Room W12-140, Washington, DC 20590. You may also submit comments electronically at www.regulations.gov. All comments should include the docket number that appears in the heading of this document. All comments received will be available for examination and copying at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard, or may print the acknowledgment page that appears after submitting comments electronically. Anyone can search the electronic form of all comments in any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, or labor union). The DOT posts these comments, without edits, 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.
FOR FURTHER INFORMATION CONTACT: Mr. James G. Gavin, Office of Project Development and Environmental Review, (202) 366-1473, James.Gavin@dot.gov, Federal Highway Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590, or Mr. David Sett, Office of the Chief Counsel, (404) 562-3676, david.sett@dot.gov, Federal Highway

Administration, U.S. Department of Transportation, 60 Forsyth Street 8M5, Atlanta, GA 30303. Office hours are from 8:00 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this notice may be downloaded from the specific docket page at www.regulations.gov.

Background

The Surface Transportation Project Delivery Program, codified at 23 U.S.C. 327, commonly known as the NEPA Assignment Program, allows a State to assume FHWA's responsibilities for environmental review, consultation, and compliance for Federal highway projects. When a State assumes these Federal responsibilities, the State becomes solely liable for carrying out the responsibilities it has assumed, in lieu of FHWA. The ODOT published its application for assumption under the NEPA Assignment Program on April 12, 2015, and made it available for public comment for 30 days. After considering public comments, ODOT submitted its application to FHWA on May 27, 2015. The application served as the basis for developing the memorandum of understanding (MOU) that identifies the responsibilities and obligations that ODOT would assume. The FHWA published a notice of the draft MOU in the **Federal Register** on October 15, 2015, at 80 FR 62153, with a 30-day comment period to solicit the views of the public and Federal agencies. After the comment period closed, FHWA and ODOT considered comments and executed the MOU.

Section 327(g) of Title 23, U.S.C., requires the Secretary to conduct annual audits to ensure compliance with the MOU during each of the first 4 years of State participation and, after the fourth year, monitor compliance. The results of each audit must be made available for public comment. The first audit report of ODOT compliance was finalized on July 7, 2017. The second audit report of ODOT compliance was finalized on October 3, 2018. This notice announces the availability of the third audit report for ODOT and solicits public comment on same.

Authority: Section 1313 of Public Law 112–141; Section 6005 of Public Law 109–59; 23 U.S.C. 327; 23 CFR 773.

Issued on: March 1, 2019.

Brandye L. Hendrickson,
Deputy Administrator, Federal Highway Administration.

Surface Transportation Project Delivery Program

Draft FHWA Audit of the Ohio Department of Transportation

August 5, 2017 to August 10, 2018

Executive Summary

This is the third audit of the Ohio Department of Transportation's (ODOT) assumption of National Environmental Policy Act (NEPA) responsibilities, conducted by a team of Federal Highway Administration (FHWA) staff (the team). The ODOT made the effective date of the project-level NEPA and environmental review responsibilities it assumed from FHWA on December 28, 2015, as specified in a memorandum of understanding (MOU) signed on December 11, 2015, and amended on June 6, 2018. Within ODOT, the Division of Planning Office of Environmental Services (OES) is responsible to manage and deliver the environmental program. This audit examined ODOT's performance under the MOU regarding responsibilities and obligations assigned therein.

Prior to the on-site visit, the team performed reviews of ODOT's project NEPA approval documentation in EnviroNet (ODOT's official electronic environmental document filing system). This audit consisted of a review of a sample of 39 higher-risk project files out of 1,042 approved documents for Federal projects in ODOT's EnviroNet system with an environmental approval date between April 1, 2017, and March 31, 2018. The team also reviewed ODOT's response to the pre-audit information request (PAIR) and ODOT's Self-Assessment report. In addition, the team reviewed ODOT's environmental processes, manuals, and guidance; ODOT NEPA Quality Assurance and Quality Control (QA/QC) Processes and Procedures; and the ODOT NEPA Assignment Training Plan (collectively, "ODOT procedures"). The team conducted an on-site review during the week of August 6 to August 10, 2018. The team conducted interviews with ODOT's central office staff on August 6 and with three district office staffs on August 7. The team also interviewed staff with the Ohio Department of Natural Resources (ODNR) on July 23, 2018, as part of the review.

Overall, the team found evidence that ODOT continues to make reasonable progress in implementing the NEPA Assignment Program based on Audit 1 and Audit 2 observations and

demonstrated commitment to success of the program. The team found zero non-compliance observations but did note six general observations.

Background

The Surface Transportation Project Delivery Program (NEPA Assignment Program) allows a State to assume FHWA's responsibilities for review, consultation, and compliance with environmental laws for Federal-aid highway projects. When a State assumes these responsibilities, it becomes solely responsible and liable for carrying out the responsibilities assumed, in lieu of FHWA.

The State of Ohio represented by ODOT completed the application process and entered an MOU with FHWA on December 28, 2015, and amended on June 6, 2018. With this agreement, ODOT assumed FHWA's project approval responsibilities under NEPA and NEPA-related Federal environmental laws.

The FHWA is obligated to conduct four annual compliance audits of ODOT's compliance with the provisions of the MOU. Audits serve as FHWA's primary mechanism of determining ODOT's compliance with the MOU, applicable Federal laws and policies, evaluating ODOT's progress toward achieving the performance measures identified in the MOU, and collecting information needed for the Secretary's annual report to Congress.

The team provided a draft of this report to ODOT for its review and the team considered the resulting comments in preparing this draft, which will be available for public review and comment. The FHWA will consider any public comments on this draft in finalizing the report.

Scope and Methodology

The team conducted a careful examination of the ODOT NEPA Assignment Program through a review of ODOT procedures and project documentation, ODOT's PAIR response, and the self-assessment summary report, as well as interviews with ODOT central office and district environmental staff and resource agency staff. This review focuses on the following six NEPA Assignment Program elements: (1) program management; (2) documentation and records management; (3) QA/QC; (4) legal sufficiency; (5) performance measurement; and (6) training.

The PAIR consisted of 18 questions, based on the responsibilities assigned to ODOT in the MOU. The team reviewed ODOT's response and compared the responses to ODOT's written

procedures. The team utilized ODOT's responses to draft interview questions to clarify information in ODOT's PAIR response.

The ODOT provided its NEPA Assignment Self-Assessment summary report 30 days prior to the team's on-site review. The team considered this summary report both in focusing on issues during the project file reviews and in drafting interview questions. The report was compared against the previous year's self-assessment report and the requirements in the MOU to identify any trends.

Between March 16 and May 31, 2018, the team conducted a project file review by identifying and reviewing 39 higher-risk project files out of 1,042 approved documents of Federal-aid projects in ODOT's EnviroNet system with an environmental approval date between April 1, 2017, and March 31, 2018. The selection of these projects was based on a 100 percent sampling of d-listed Categorical Exclusions (CE), as well as all Environmental Assessments (EA) and Environmental Impact Statements (EIS). The team excluded from review those projects approved by ODOT under 23 CFR 771.117(c) (c-listed CEs) based on the review performance of those types of projects since ODOT assumed NEPA responsibilities in 2015. The projects reviewed represented all remaining NEPA classes of action available, including projects representing 9 out of 12 ODOT Districts and the Ohio Rail Development Commission (ORDC).

In addition, the team reviewed ODOT's project file review associated with its Self-Assessment to determine if ODOT evaluated its projects in a similar fashion and using similar standards to that of the Federal portion of this review. The ODOT reviewed projects within the same sampling period as FHWA, however, ODOT samples included Federal-aid and State-only funded projects. The ODOT conducts NEPA on all projects regardless of funding source as they routinely convert funding from State to Federal later via the Advanced Construction (AC) process. The ODOT reviewed 248 projects, including 186 c-listed projects, 61 d-listed projects, and 1 EA. The team determined the State performed a rigorous annual QA review of its own projects.

During the on-site review week, the team conducted interviews with 21 ODOT staff members at the central office and three districts: District 6 (Delaware); District 7 (Sydney); and District 10 (Marietta). Interviewees included ODOT OES management and subject matter experts, Office of

Diversity and Inclusion (ODI), District Environmental Coordinators (DEC), environmental staff, and public information officers, representing a diverse range of expertise and experience. These interviews focused on NEPA Assignment with emphasis on items where additional information was deemed necessary to complete the review.

The team conducted interviews 2 weeks prior to the on-site review with personnel from the ODNr. The ODNr staff provided valuable insight to the review team regarding ODOT's performance and relationships with partner resource agencies.

The team identified gaps between the information from the desktop review of ODOT procedures, PAIR, self-assessment, project file review, and interviews. The team documented the results of its reviews and interviews and consolidated the results into related topics or themes. From these topics or themes, the team developed the review observations and successful practices. The audit results are described below.

Overall, the team found evidence that ODOT continues to make reasonable progress in implementing the NEPA Assignment Program based on the Audit 1 and Audit 2 observations and demonstrated commitment to success of the program. The team found zero non-compliance observations but did note six general observations.

The FHWA team urges ODOT to monitor and make additional improvements to the program for continued successes of the program.

Observations and Successful Practices

Program Management

Observation 1: Opportunities exist to strengthen coordination between ODOT OES and ODOT ODI.

The team encourages ODOT to ensure that a proper level of communication exists between OES and ODI in order to facilitate the coordination of OES guidance and training with the ongoing ODOT-wide Title VI program enhancements. The FHWA recognizes and is supportive of the coordination and partnering efforts between OES and ODI undertaken to date and stands ready to contribute to these efforts, where appropriate.

Observation 2: There are inconsistencies in the communication and management of ODOT policy, manuals, procedures, and guidance.

The ODOT developed and implemented over 140 procedures to implement NEPA Assignment, manage the program, and provide detailed instruction for completion of

environmental actions to document preparers and reviewers. The ODOT shares these documents and other guidance with NEPA practitioners on a quarterly basis via email, NEPA chats and DEC Meetings, and via training. In addition, these documents are saved on a local drive accessible by ODOT environmental staff and posted to ODOT's website for consultants and local public agencies.

The FHWA found that policies, manuals, and other guidance documents are readily available. However, interviews with district staff indicate that opportunities exist to improve upon the communication of this documentation in order to ensure more consistent implementation. In addition, there are examples of training materials containing information that is not included in the related guidance documents. In these cases, some environmental staff indicated they rely on the information in the guidance while others indicated they rely on OES instruction provided verbally or through email. Information prepared for ODOT staff should exhibit consistency, regardless of the form in which its presented.

Observation 3: Inconsistencies remain in Public Involvement (PI) activities specifically regarding outreach activities to underserved and protected populations.

The team notes and appreciates ongoing efforts by ODOT in response to previous audit recommendations for improvement and enhancement of the PI process. The team was provided examples of effective PI efforts during the interviews with district staff. However, as demonstrated in the project file reviews and the interviews, there remain areas of note in application and consistency of public involvement efforts and activities. During FHWA's review, ODOT stated that the intent of its process regarding Environmental Justice (EJ) is to identify any disproportionately high and adverse impacts and disparate impacts on the associated populations. Although OES staff indicated that they have updated the guidance, developed new training, and provided forums for instructive discussion for all environmental staff, consultants, and Local Public Agencies, it is not clear how ODOT will ensure that outreach efforts and activities are commensurate with the level of impact or potential mitigation, as there is no discussion of outreach efforts in the *ODOT-OES' Underserved Populations Guidance*. It is unclear that the distinctions and specific requirements of protected populations are fully discerned and distinguished from each

other in the guidance document, including thresholds and requirements. In addition, interview responses within OES indicated a difference of opinion in terms of what constituted outreach to underserved and protected populations.

At the district level, ODOT district environmental staff indicated that they had inconsistent information on how to determine if there were protected populations and how to conduct the required outreach activities, even if there were no disproportionately negative impacts. However, OES is trusting the districts, on projects with a lower level of NEPA classification, to ensure full and fair participation by underserved and protected populations in public involvement, NEPA and the transportation decisionmaking processes.

Documentation and Records Management

Observation 4: Opportunities exist to continue improving documentation in the areas of PI, EJ, and environmental commitments.

In response to previous audits and self-assessments, ODOT updated many procedures relating to the NEPA process to improve its processes and meet Federal requirements. The updates included changes to ODOT's internal documentation and filing guidelines and updates to EnviroNet. The review team thinks these changes have positively impacted the program since Audits 1 and 2.

The quality of documentation for projects is trending in a positive direction since Audits 1 and 2, as approximately 50 percent of all projects reviewed had zero deficiencies noted by the team. However, although there were examples of high quality PI, EJ reviews, development of environmental commitments, and documentation for some projects, these same elements were lacking in others. For the projects reviewed, 42 percent of substantive comments made by the team related to EJ, 22 percent to PI, 17 percent to environmental commitments, 11 percent to QA/QC, and 8 percent to documentation. This demonstrates inconsistencies in practice, which may indicate additional training, guidance, and/or quality controls may be needed to improve consistency in application of documentation statewide.

The team met with ODOT to discuss individual deficiencies noted by both FHWA and ODOT OES during this audit. The ODOT evaluated these deficiencies at OES and then communicated them individually with the districts. The ODOT remains committed to improvements in

documentation, with plans to continue updates to EnviroNet and guidance, as needed, and with the training required to deliver results.

Quality Assurance/Quality Control (QA/QC)

Observation 5: There are variations in awareness, understanding, and implementation of QA/QC process and procedures.

The inconsistencies and missing information noted in the Documentation and Records Management section are an indication of inconsistency in ODOT's QA/QC process. The team found inconsistencies in awareness and use of peer reviews in the ODOT Districts, as well as use of comments in EnviroNet. Selected ODOT OES and district environmental staff said that they rely on the ODOT Central Office for QC support. No training is provided exclusively for QA/QC.

Legal Sufficiency Review

The ODOT utilized its guidance for legal sufficiency to review one Environmental Impact Statement Re-evaluation, one EA, and two Individual Section 4(f) approvals.

Performance Measures

The development of Performance Measures is required in MOU Section 10.2. The ODOT has refined their Performance Measures to provide a better overall indication of ODOT's execution of its responsibilities as assigned by the MOU. The team found evidence that the results obtained through the Performance Measures are beginning to provide actionable feedback, allowing ODOT to make appropriate changes as it manages its environmental program.

Training Program

During the previous audits, it was noted that ODOT has a robust environmental training program and provides adequate budget and time for staff to access a variety of internal and external training. To add to the training program and plan, ODOT has complemented its traditional, instructor-based training courses, quarterly DEC meetings, and monthly NEPA chats with the development of several online courses. During the audit, ODOT reported that 10 online courses are anticipated to be available in August 2018, with an additional 19 online courses anticipated to be developed within the year. As of October 2018, it is not evident that these courses were yet deployed.

Observation 6: Opportunities exist to expand required and continuous

training to additional staff and develop additional instructor-led or online training in NEPA-related subject areas.

Also, during the previous audit, it was noted ODOT's training plan states that all ODOT environmental staff (both central and district offices) and environmental consultants are required to take the pre-qualification training courses. The ODOT should consider extending this requirement to NEPA project managers and public involvement officers. Extending the training to additional staff may improve public outreach efforts and overall program delivery. The ODOT should focus on training in NEPA and NEPA-related subject areas such as Limited English Proficiency and Public Involvement. The FHWA encourages ODOT to include specific EJ training opportunities in its training plan, such as the Web-based course currently under development.

Next Steps

The FHWA provided a draft of this audit report to ODOT for a 14-day review and comment period and considered ODOT's comments in developing this draft report. In addition, FHWA will consider comments on the draft report received from the public within the 30-day comment period after publication in the **Federal Register**, pursuant to 23 U.S.C. 327(g). No later than 60 days after the close of the comment period, FHWA will respond to all comments submitted, pursuant to 23 U.S.C. 327(g)(2)(B). Once finalized, FHWA will publish the final audit report in the **Federal Register**.

The FHWA will consider the results of this audit in preparing the scope of the next annual audit. The next audit report will include a summary that describes the status of ODOT's corrective and other actions taken in response to this audit's conclusions.

[FR Doc. 2019-04231 Filed 3-7-19; 8:45 am]

BILLING CODE 4910-22-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2019-0023]

Agency Information Collection Activities; Revision of an Approved Information Collection: Hours of Service (HOS) of Drivers Regulations

AGENCY: FMCSA, DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FMCSA announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for its review and approval and invites public comment. The FMCSA requests approval to renew an ICR titled, “Hours of Service (HOS) of Drivers Regulations.” The HOS regulations require a motor carrier to install and require each of its drivers subject to the record of duty status (RODS) rule to use an electronic logging device (ELD) to report the driver’s RODS. The RODS is critical to FMCSA’s safety mission because it helps enforcement officials determine if CMV drivers are complying with the HOS rules limiting driver on-duty and driving time and requiring periodic off-duty time.

DATES: We must receive your comments on or before May 7, 2019.

ADDRESSES: You may submit comments identified by Federal Docket Management System (FDMS) Docket Number FMCSA–2019–0023 using any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.

- *Fax:* 1–202–493–2251.

- *Mail:* Docket Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, 20590–0001.

- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m. e.t., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the Agency name and docket number. For detailed instructions on submitting comments, see the Public Participation heading below. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>, and follow the online instructions for accessing the dockets, or go to the street address listed above.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may

review DOT’s complete Privacy Act Statement for the Federal Docket Management System published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit <http://edocket.access.gpo.gov/2008/pdfE8-794.pdf>.

Public Participation: The Federal eRulemaking Portal is available 24 hours each day, 365 days each year. You can obtain electronic submission and retrieval help and guidelines under the “help” section of the Federal eRulemaking Portal website. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard, or print the acknowledgement page that appears after submitting comments online. Comments received after the comment closing date will be included in the docket and will be considered to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Ms. Pearlie Robinson, FMCSA Driver and Carrier Operations Division Department of Transportation, FMCSA, West Building 6th Floor, 1200 New Jersey Avenue SE, Washington, DC 20590. Telephone: 202–366–4225. Email: MCPSD@dot.gov.

SUPPLEMENTARY INFORMATION:

Background

On December 16, 2015, the final rule titled “Electronic Logging Devices and Hours of Service Supporting Documents” was published and became effective February 16, 2016 (80 FR 78292). The FMCSA established minimum performance and design standards for ELDs and the mandatory use of these devices by drivers who are subject to the HOS reporting requirements. Drivers currently using compliant automatic on-board recorders (AOBRDs) have until December 16, 2019, to replace the devices with ELDs. As a condition of receiving certain federal grants, States agree to adopt and enforce the Federal Motor Carrier Safety Regulations, including the HOS rules, as State law. As a result, State enforcement inspectors use the RODS and supporting documents to determine whether CMV drivers are complying with the HOS rules. In addition, FMCSA uses the RODS during on-site and offsite investigations of motor carriers. And, Federal and State courts rely upon the RODS as evidence of driver and motor carrier violations of the HOS regulations. This information collection supports the DOT’s Strategic Goal of Safety because the information helps the Agency ensure the safe operation of CMVs in interstate commerce on our Nation’s highways.

Renewal of This IC

The current IC burden estimate of the HOS rules, approved by OMB on June 13, 2016, is 99.46 million hours. The expiration date of the current ICR is June 30, 2019. Through this ICR, FMCSA requests a revision of the paperwork burden of 2126–0001. The Agency requests a reduction in the burden hours from 99.46 million hours to 41.03 million hours. The reduction is the result of amendments of the HOS rules in which the burden estimate for most drivers and motor carriers is based on compliance with the ELD final rule during the three-year ICR period. Two types of information are collected under this IC: (1) Drivers’ RODS commonly referred as a logbook, and (2) supporting documents, such as gasoline and toll receipts, that motor carriers use to verify accuracy of RODS and document expense deductions for income tax filing purposes. The use of ELDs reduces the driver’s time to input duty status from 6.5 minutes to 2 minutes.

Title: Hours of Service (HOS) of Drivers Regulations.

OMB Control Number: 2126–0001.

Type of Request: Revision of an information collection.

Respondents: Motor Carriers of Property and Passengers, Drivers of CMVs.

Estimated Number of Respondents: 3.42 million CMV drivers; 540,000 Motor Carriers.

Estimated Time per Response: CMV drivers using technology: 2 minutes. Motor Carriers: 2 minutes.

Expiration Date: June 30, 2019.

Frequency of Response: Drivers: 240 days per year; Motor carriers 240 days per year.

Estimated Total Annual Burden: 41.03 million hours.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the performance of FMCSA’s functions; (2) the accuracy of the estimated burden; (3) ways for the FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the information collected. The Agency will summarize or include your comments in the request for OMB’s clearance of this ICR.

Issued under the authority of 49 CFR 1.87 on:

Dated: March 1, 2019.

Kelly Regal,

Associate Administrator for Office of Research and Information Technology.

[FR Doc. 2019-04190 Filed 3-7-19; 8:45 am]

BILLING CODE 4910-EX-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2019-0056]

Hours of Service of Drivers: R.J. Corman Railroad Services, Cranemasters, Inc., and National Railroad Construction and Maintenance Association, Inc.

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of application for exemption; request for comments.

SUMMARY: FMCSA announces that it has received an application from R.J. Corman Railroad Services, Cranemasters, Inc., (“Companies”) and the National Railroad Construction and Maintenance Association, Inc. requesting a limited exemption from the regulatory hours-of-service (HOS) maximum driving time requirements for drivers of property-carrying vehicles. The applicants request the exemption to enable affected railroad employees, subject to the HOS rule, to respond to an unplanned event that occurs outside of or extends beyond the employee’s normal work hours. FMCSA requests public comment on the Companies’ application for exemption.

DATES: Comments must be received on or before April 8, 2019.

ADDRESSES: You may submit comments identified by Federal Docket Management System Number FMCSA-2019-0056 by any of the following methods:

- *Federal eRulemaking Portal:* www.regulations.gov. See the *Public Participation and Request for Comments* section below for further information.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001.
- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, between 9 a.m. and 5 p.m. E.T., Monday through Friday, except Federal holidays.
- *Fax:* 1-202-493-2251.

Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to

www.regulations.gov, including any personal information included in a comment. Please see the *Privacy Act* heading below.

Docket: For access to the docket to read background documents or comments, go to www.regulations.gov at any time or visit Room W12-140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The on-line FDMS is available 24 hours each day, 365 days each year.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.dot.gov/privacy.

FOR FURTHER INFORMATION CONTACT: Ms. Pearlie Robinson, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: (202) 366-4325; Email: MCPSD@dot.gov. If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA-2019-0056), indicate the specific section of this document to which the comment applies, and provide a reason for suggestions or recommendations. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to www.regulations.gov and put the docket number, “FMCSA-2019-0056” in the “Keyword” box, and click “Search.” When the new screen appears, click on “Comment Now!” button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party

and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period (up to 5 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

III. Request for Exemption

R.J. Corman Railroad Services, Cranemasters, Inc., (“Companies”) and the National Railroad Construction and Maintenance Association, Inc. is requesting an exemption from the HOS regulations in 49 CFR part 395 for their employees who transport equipment used to clear derailed or disabled trains or debris blocking tracks or railroad rights-of-way when they are responding to unplanned events that affect interstate commerce, service or the safety of railway operations, including passenger rail operations.

The Companies assert that many unplanned events occur outside of normal business hours and in many instances the situation is locally contained. In that case, while a local government official could declare an emergency that would exempt the

company and its drivers from the HOS regulations, local government officials have not done so and it would not be practical for them to do so in the future. This is because (1) many unplanned events occur in remote locations where it may not be clear who a railroad should contact to declare an emergency; (2) more than half of unplanned event call times typically occur between 4:00 p.m. and 7:00 a.m., including a large number between midnight and 7:00, making it virtually impossible for the railroads to contact an official to request an emergency declaration before they request a contractor to respond to the unplanned event; and (3) companies likely would not know if such an emergency declaration had been made before they respond to a call from a railroad.

In their application, the Companies compare the work of railroad employees responding to an emergency situation to that of utility service employees responding to an emergency situation. Utility service vehicles are exempt from the HOS regulations. According to the Companies, the rationale for the utility service vehicle exemption applies with equal force to railroad emergency response contractors when they respond to unplanned events.

The Companies are seeking an exemption from the HOS regulations only for the time spent by their drivers driving to the site of the unplanned event. The term “unplanned event” includes, but is not limited to some of the following: A derailment; a rail failure or other report of dangerous track condition; a disruption to the electric propulsion system; a bridge-strike; a disabled vehicle on the track; a train collision; weather and storm-related events; a matter of national security; or a matter concerning public safety; a blocked grade crossing, etc. The Companies said that the exemption would be narrower than the utility service exemption, which allows drivers to drive after they complete work restoring utility service. The Companies wrote that they would ensure their drivers would not drive a CMV after completing work until the drivers had obtained the required 10 hours or 34 hours of rest depending on their cumulative hours on duty for the day and week. The applicants request the exemption be granted for five years.

IV. Method To Ensure an Equivalent or Greater Level of Safety

The Companies state that they have and will continue to take the following steps to ensure that safety is not compromised by the exemption. The Companies will do the following:

- Ensure drivers will have at least one hour of lead time before mobilizing equipment and actively begin driving;
- During one-hour lead time, drivers can participate in stretching and light exercise to improve alertness prior to driving;
- Drivers will drive in a convoy using escort vehicles in the front and back;
- Vehicles will be equipped with two-way radios and supervisors conduct routine radio checks every 30 to 45 minutes requiring response from drivers; and
- Ensure supervisors train employees to recognize fatigue and that drivers adhere to policy that no driver is required to drive a vehicle if feeling fatigued.

The applicants believe that the exemption, if granted, would not pose a safety risk since the drivers drive relatively short distances on public roads to get to the site of an unplanned event and do not drive after completing work at a site until requisite rest is obtained. A copy of the application for exemption is available for review in the docket for this notice.

Issued on: March 1, 2019.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2019-04189 Filed 3-7-19; 8:45 am]

BILLING CODE 4910-EX-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD-2019-0029]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel KADIDDLEHOPPER (50' Sailboat); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.
ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirements of the coastwise trade laws to allow the carriage of no more than twelve passengers for hire on vessels, which are three years old or more. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before April 8, 2019.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD-2019-0029 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Search

MARAD-2019-0029 and follow the instructions for submitting comments.

- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD-2019-0029, 1200 New Jersey Avenue SE, West Building, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at www.regulations.gov, including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT:

Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23-453, Washington, DC 20590. Telephone 202-366-9309, Email Bianca.carr@dot.gov.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel KADIDDLEHOPPER is:

—*Intended Commercial use of Vessel:*
“Private Charters up to 12 passengers”

—*Geographic Region Including Base of Operations:* “California” (Base of Operations: Marina Del Ray, CA)

—*Vessel Length and Type:* 50' sailboat

The complete application is available for review identified in the DOT docket as MARAD-2019-0029 at <http://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the vessel name, state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of

MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at <http://www.regulations.gov>, keyword search MARAD-2019-0029 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR-225, W24-220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to www.regulations.gov, as described in the system of records notice, DOT/ALL-14 FDMS, accessible through www.dot.gov/privacy. To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves,

all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

* * * * *

Dated: March 5, 2019.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2019-04215 Filed 3-7-19; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD-2019-0012]

Deepwater Port License Application: Texas COLT LLC

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice of intent; notice of public meeting; request for comments.

SUMMARY: The U.S. Coast Guard (USCG), in coordination with the Maritime Administration (MARAD), will prepare an environmental impact statement (EIS) as part of the environmental review of the Texas COLT LLC (Texas COLT) deepwater port license application. The application proposes the ownership, construction, operation and eventual decommissioning of an offshore oil export deepwater port that would be located in Federal waters approximately 27.8 nautical miles off the coast of Brazoria County, Texas in a water depth of approximately 110 feet. The deepwater port would allow for the loading of Very Large Crude Carriers (VLCCs) and other sized crude oil cargo carriers via two single point mooring buoy systems.

This Notice of Intent (NOI) requests public participation in the scoping process, provides information on how to participate and announces an informational open house and public meeting in Lake Jackson, Texas. Pursuant to the criteria provided in the Deepwater Port Act of 1974, as amended, Texas is the designated Adjacent Coastal State for this application.

DATES: There will be one public scoping meeting held in connection with the Texas COLT deepwater port application. The meeting will be held in Lake Jackson, Texas on March 22, 2019, from 6:00 p.m. to 8:00 p.m. The public meeting will be preceded by an

informational open house from 4:00 p.m. to 5:30 p.m.

The public meeting may end later than the stated time, depending on the number of persons wishing to speak. Additionally, materials submitted in response to this request for comments on the Texas COLT deepwater port license application must reach the Federal Docket Management Facility as detailed below by April 8, 2019.

ADDRESSES: The open house and public meeting in Lake Jackson, Texas will be held at the Courtyard Lake Jackson, 159 State Highway 288, Lake Jackson, TX 77566, phone: (979) 297-7300, web address: <https://www.marriott.com/hotels/travel/ljncy-courtyard-lake-jackson/>. Free parking is available at the venue.

The public docket for the Texas COLT deepwater port license application is maintained by the U.S. Department of Transportation, Docket Management Facility, West Building, Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590. The license application is available for viewing at the *Regulations.gov* website: <http://www.regulations.gov> under docket number MARAD-2019-0012.

We encourage you to submit comments electronically through the Federal eRulemaking Portal at <http://www.regulations.gov>. If you submit your comments electronically, it is not necessary to also submit a hard copy. If you cannot submit material using <http://www.regulations.gov>, please contact either Mr. Ken Smith, USCG or Mr. Linden Houston, MARAD, as listed in the following **FOR FURTHER INFORMATION CONTACT** section of this document, which also provides alternate instructions for submitting written comments. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted. Anonymous comments will be accepted. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided. The Federal Docket Management Facility's telephone number is 202-366-9317 or 202-366-9826, the fax number is 202-493-2251.

FOR FURTHER INFORMATION CONTACT: Mr. Ken Smith, USCG, telephone: 202-372-1413, email: Ken.A.Smith@uscg.mil, or Mr. Linden Houston, MARAD, telephone: 202-366-4839, email: Linden.Houston@dot.gov. For questions regarding viewing the Docket, call Docket Operations, telephone: 202-366-9317 or 202-366-9826.

SUPPLEMENTARY INFORMATION:

Public Meeting and Open House

We encourage you to attend the informational open house and public meeting to learn about, and comment on, the proposed deepwater port. You will have the opportunity to submit comments on the scope and significance of the issues related to the proposed deepwater port that should be addressed in the EIS.

Speaker registrations will be available at the door. Speakers at the public scoping meeting will be recognized in the following order: Elected officials, public agencies, individuals or groups in the sign-up order and then anyone else who wishes to speak.

In order to allow everyone a chance to speak at a public meeting, we may limit speaker time, extend the meeting hours, or both. You must identify yourself, and any organization you represent, by name. Your remarks will be recorded and/or transcribed for inclusion in the public docket.

You may submit written material at the public meeting, either in place of, or in addition to, speaking. Written material should include your name and address and will be included in the public docket.

Public docket materials will be made available to the public on the Federal Docket Management Facility website (see **ADDRESSES**).

Our public meeting location is wheelchair-accessible and compliant with the Americans with Disabilities Act. If you plan to attend an open house or public meeting and need special assistance such as sign language interpretation, non-English language translator services or other reasonable accommodation, please notify the USCG or MARAD (see **FOR FURTHER INFORMATION CONTACT**) at least 5 business days in advance of the public meeting. Include your contact information as well as information about your specific needs.

Request for Comments

We request public comment on this proposal. The comments may relate to, but are not limited to, the environmental impact of the proposed action. All comments will be accepted. The public meeting is not the only opportunity you have to comment on the Texas COLT deepwater port license application. In addition to, or in place of, attending a meeting, you may submit comments directly to the Federal Docket Management Facility during the public comment period (see **DATES**). We will consider all comments and material received during the 30-day scoping period.

The license application, comments and associated documentation, as well as the draft and final EISs (when published), are available for viewing at the Federal Docket Management System (FDMS) website: <http://www.regulations.gov> under docket number MARAD-2019-0012.

Public comment submissions should include:

- Docket number MARAD-2019-0012.
 - Your name and address.
- Submit comments or material using only one of the following methods:
- Electronically (preferred for processing) to the Federal Docket Management System (FDMS) website: <http://www.regulations.gov> under docket number MARAD-2019-0012.
 - By mail to the Federal Docket Management Facility (MARAD-2019-0012), U.S. Department of Transportation, West Building, Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590-0001.
 - By personal delivery to the room and address listed above between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.
 - By fax to the Federal Docket Management Facility at 202-493-2251.

Faxed, mailed or hand delivered submissions must be unbound, no larger than 8½ by 11 inches and suitable for copying and electronic scanning. The format of electronic submissions should also be no larger than 8½ by 11 inches. If you mail your submission and want to know when it reaches the Federal Docket Management Facility, please include a stamped, self-addressed postcard or envelope.

Regardless of the method used for submitting comments, all submissions will be posted, without change, to the FDMS website (<http://www.regulations.gov>) and will include any personal information you provide. Therefore, submitting this information to the docket makes it public. You may wish to read the Privacy and Use Notice that is available on the FDMS website and the Department of Transportation Privacy Act Notice that appeared in the **Federal Register** on April 11, 2000 (65 FR 19477), see Privacy Act. You may view docket submissions at the Federal Docket Management Facility or electronically on the FDMS website.

Background

Information about deepwater ports, the statutes, and regulations governing their licensing, including the application review process, and the receipt of the current application for the proposed Texas COLT deepwater port

appears in the Texas COLT Notice of Application, Tuesday, March 5, 2019 edition of the **Federal Register**. The “Summary of the Application” from that publication is reprinted below for your convenience.

Consideration of a deepwater port license application includes review of the proposed deepwater port’s impact on the natural and human environment. For the proposed deepwater port, USCG and MARAD are the co-lead Federal agencies for determining the scope of this review, and in this case, it has been determined that review must include preparation of an EIS. This NOI is required by 40 CFR 1501.7. It briefly describes the proposed action, possible alternatives and our proposed scoping process. You can address any questions about the proposed action, the scoping process or the EIS to the USCG or MARAD project managers identified in this notice (see **FOR FURTHER INFORMATION CONTACT**).

Proposed Action and Alternatives

The proposed action requiring environmental review is the Federal licensing of the proposed deepwater port described in “Summary of the Application” below. The alternatives to licensing the proposed port are: (1) Licensing with conditions (including conditions designed to mitigate environmental impact), (2) evaluation of proposed deepwater port and onshore site/pipeline route alternatives or (3) denying the application, which for purposes of environmental review is the “no-action” alternative.

Scoping Process

Public scoping is an early and open process for identifying and determining the scope of issues to be addressed in the EIS. Scoping begins with this notice, continues through the public comment period (see **DATES**), and ends when USCG and MARAD have completed the following actions:

- Invites the participation of Federal, state, and local agencies, any affected Indian tribe, the applicant, in this case Texas COLT, and other interested persons;
- Determines the actions, alternatives and impacts described in 40 CFR 1508.25;
- Identifies and eliminates from detailed study, those issues that are not significant or that have been covered elsewhere;
- Identifies other relevant permitting, environmental review and consultation requirements;
- Indicates the relationship between timing of the environmental review and

other aspects of the application process; and

- At its discretion, exercises the options provided in 40 CFR 1501.7(b).

Once the scoping process is complete, USCG and MARAD will prepare a draft EIS. When complete, MARAD will publish a **Federal Register** notice announcing public availability of the Draft EIS. (If you want that notice to be sent to you, please contact the USCG or MARAD project manager identified in **FOR FURTHER INFORMATION CONTACT**). You will have an opportunity to review and comment on the Draft EIS. The USCG, MARAD and other appropriate cooperating agencies will consider the received comments and then prepare the Final EIS. As with the Draft EIS, we will announce the availability of the Final EIS and give you an opportunity for review and comment. The Act requires a final public hearing be held in the Adjacent Coastal State. Its purpose is to receive comments on matters related to whether or not a deepwater port license should be issued to the applicant by the Maritime Administrator. The final public hearing will be held in Lake Jackson, Texas after the Final EIS is made available for public review and comment.

Summary of the Application

Texas COLT LLC is proposing to construct, own, and operate a deepwater port terminal in the Gulf of Mexico to export domestically produced crude oil. Use of the DWP would include the loading of various grades of crude oil at flow rates of up to 85,000 barrels per hour (bph). At full operating capacity twenty-three Very Large Crude Carrier (VLCC) vessels (or equivalent volumes) would be loaded per month from the proposed deepwater port. Loading of one VLCC vessel is expected to take 24 hours.

The overall project would consist of offshore and marine components as well as onshore components as described below.

The COLT deepwater port offshore and marine components would consist of the following:

- **Texas COLT Offshore Manned Platform and Control Center:** One (1) fixed offshore platform with piles in Brazos Area Outer Continental Shelf lease block 466, approximately 27.8 nautical miles off the coast of Brazoria County, Texas in a water depth of approximately 110 feet. The fixed offshore platform would be comprised of several decks including: A sump deck and a cellar deck. The cellar deck will have a supporting pig trap, leak detection meter, control valve, oil relief (Holding) tank, and associated

equipment, complete with living quarters, control room and a helideck.

- **One (1) 42-inch outside diameter, 27.8-nautical-mile long crude oil pipeline** would be constructed from the shoreline crossing in Brazoria County, Texas, to the COLT deepwater port for crude oil delivery. This pipeline would connect the Texas COLT Onshore Delivery Pipeline to the offshore Texas COLT deepwater port platform.

- **The platform is connected to Very Large Crude Carrier (VLCC) tankers** for loading by two (2) 42-inch outside diameter departing pipelines. Each pipeline will depart the offshore platform, carrying the oil to a Pipeline End Manifold (PLEM) in approximately 110 feet water depth located one nautical mile from the offshore platform. Each PLEM is then connected through two 24-inch underbuoy hoses to a Single Point Mooring (SPM) Buoy. Two 24-inch floating loading hoses will connect the SPM Buoy to the VLCC.

The Texas COLT deepwater port onshore storage and supply components would consist of the following:

- **Texas COLT Onshore Storage Terminal:** The proposed Onshore Storage Terminal would be located in Brazoria County, Texas, on approximately 245 acres of land consisting of twenty-five (25) above ground storage tanks, each with a working storage capacity of 600,000 barrels, for a total onshore storage capacity of approximately 15 million barrels. The Texas COLT Onshore Storage Terminal also would include: Eight (8) 2,500-hp vertical product pumps; six (6) 750-hp vertical recirculation pumps; two (2) receiving manifolds; one (1) product metering station; two (2) motor control centers; nine (9) auxiliary electrical control buildings in the storage tank area; one (1) Administrative building and onshore operations control center and one (1) 15,000 square foot warehouse building.

- **Texas COLT Pump Station:** The Texas COLT Pump Station will be at the Texas COLT Onshore Storage Terminal site and will be comprised of twelve, 7,000 horsepower (hp) pumps (two banks of six pumps including two total spare pumps). The Texas COLT Pump Station will boost the system pressure to a maximum flow rate of 85,000 barrels per hour.

- **Four onshore crude oil pipelines and affiliated facilities** would be constructed onshore to support the Texas COLT deepwater port and include the following items:

- **Genoa Pipeline:** One (1) 60-mile-long 24-inch crude oil pipeline from Genoa Junction to the proposed Texas COLT Onshore Storage Terminal. This

pipeline would be located in Harris County, Galveston County and Brazoria County, Texas. Additional components include six Mainline Emergency Flow Restriction Device (EFRD) Valves along the pipeline to facilitate shutdowns as needed, two meter stations (Kurland Station and Texas COLT Terminal Metering Station), two pump stations (Kurland Pump Station and Rosharon Pump Station), launcher traps and receiver traps, transfer meter, and surge relief.

- **Gray Oak Connector Pipeline:** One (1) 28-mile-long, 30-inch inbound pipeline in Brazoria County, Texas from Sweeny Junction to the Texas COLT Onshore Terminal. Additional components include one pump station (Texas COLT Sweeny Junction Pump Station), and Mainline EFRD valves to facilitate shutdowns as needed, as well as a launcher trap, receiver trap, transfer meter, and surge relief.

- **Onshore Delivery Pipeline:** One (1) 8 mile, 42-inch outbound pipeline in Brazoria County, Texas from the Texas COLT Onshore Storage Terminal to the Texas COLT Offshore Delivery Pipeline. Additional components include three Mainline EFRD Valves along the pipeline to facilitate shutdowns as needed.

- **Seaway Pipeline Connection:** One (1) 1 mile bi-directional, 30-inch diameter pipeline and associated facilities in Brazoria County, Texas between the Seaway Jones Creek Crude Oil Terminal and the Texas COLT Onshore Storage Terminal. The Texas COLT Seaway Pipeline Connection will primarily receive crude oil from the Seaway Jones Creek Crude Oil Terminal. Additional components include EFRD Valves to facilitate shutdowns as needed, launcher trap, receiver trap, transfer meter, and surge relief.

Crude oil will be delivered to the Texas COLT Onshore Storage Terminal from existing sources via the Texas COLT Gray Oak Connector Pipeline, Texas COLT Genoa Pipeline, and Texas COLT Seaway Pipeline Connection. Crude oil will be delivered to the Texas COLT Offshore Manned Platform and Control Center via the Texas COLT Onshore Delivery Pipeline and continuing through the Texas COLT Offshore Delivery Pipeline. The Texas COLT Deepwater Port will transfer the crude oil to VLCCs through two separate SPM Buoy systems. VLCCs will moor to the SPM Buoys with support from assist vessels.

Privacy Act

DOT posts comments, without edit, to www.regulations.gov, as described in the system of records notice, DOT/ALL-

14 FDMS, accessible through www.dot.gov/privacy. To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93).

Dated: March 5, 2019.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2019-04176 Filed 3-7-19; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD-2019-0030]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel ISLAND GIRL (53' Motor Vessel); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirements of the coastwise trade laws to allow the carriage of no more than twelve passengers for hire on vessels, which are three years old or more. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before April 8, 2019.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD-2019-0030 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Search MARAD-2019-0030 and follow the instructions for submitting comments.

- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD-2019-0030, 1200 New Jersey Avenue SE, West Building, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m.,

Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at www.regulations.gov, including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT:

Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23-453, Washington, DC 20590. Telephone 202-366-9309, Email Bianca.carr@dot.gov.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel ISLAND GIRL is:

—*Intended Commercial use of Vessel:* “Passenger and recreational fishing charter”

—*Geographic Region Including Base of Operations:* “Florida, Tennessee, Alabama, Mississippi, Georgia, South Carolina, North Carolina” (Base of Operations: Fort Lauderdale, FL)

—*Vessel Length and Type:* 53' motor vessel

The complete application is available for review identified in the DOT docket as MARAD-2019-0030 at <http://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the vessel name, state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised

that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at <http://www.regulations.gov>, keyword search MARAD-2019-0030 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR-225, W24-220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to www.regulations.gov, as described in the system of records notice, DOT/ALL-14 FDMS, accessible through www.dot.gov/privacy. To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

* * * * *

Dated: March 5, 2019.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2019-04213 Filed 3-7-19; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Maritime Administration

Small Shipyard Grant Program; Application Deadlines

AGENCY: Maritime Administration,
Department of Transportation.

ACTION: Notice of Small Shipyard Grant
Application deadlines.

SUMMARY: Under the Small Shipyard Grant Program, \$19,600,000 is currently available for grants for capital and related improvements to qualified shipyard facilities that will be effective in fostering efficiency, competitive operations, and quality ship construction, repair, and reconfiguration. This notice announces the intention of the Maritime Administration to provide grants to small shipyards. Catalog of Federal Domestic Assistance Number: 20.814. Potential applicants are advised that it is expected, based on experience, that the aggregate amount of requested funding among all applicants will far exceed the funds available and that only a small percentage of applications will be funded. It is anticipated that roughly 10–20 applications will be selected for funding with an average grant amount of about \$1 million.

Timing of Grant Applications

In accordance with the statutory requirement that applications must be submitted within 60 days of the Consolidated Appropriations Act, 2019 (Pub. L. 116–6), applications must be received by the Maritime Administration by 5:00 p.m. EDT on April 16, 2019. Applications received later than this time will not be considered. The Administrator shall award grants under this section not later than 120 days after the date of the enactment of the appropriations Act for the fiscal year concerned.

ADDRESSES: Grant Applications should be sent to the Associate Administrator for Business and Finance Development, Room W21–318, Maritime Administration, 1200 New Jersey Avenue SE, Washington, DC 20590. Only applicants who comply with all submission requirements described in this notice will be eligible for award.

FOR FURTHER INFORMATION CONTACT: For further information concerning this notice, please contact David M. Heller, Director, Office of Shipyards and Marine Engineering, Maritime Administration, Room W21–318, 1200 New Jersey Ave. SE, Washington, DC 20590; phone: (202) 366–5737; or fax: (202) 366–6988.

SUPPLEMENTARY INFORMATION: Grants under the Maritime Administration's Small Shipyard Grant Program may not be used to construct buildings or other physical facilities or to acquire land. Grant funds may be used for maritime training programs to foster employee skills and enhanced productivity related to shipbuilding, ship repair, and associated industries. Grants for such training programs may only be awarded to "Eligible Applicants" as described below, but training programs can be established through vendors to such applicants.

Table of Contents

- A. Program Description
- B. Federal Award Information
- C. Eligibility Information
- D. Application and Submission Information
- E. Application Review Information
- F. Federal Award Administration Information
- G. Federal Awarding Agency Contacts
- H. Other Information

A. Program Description

The Small Shipyard Grant Program was authorized under Section 3501 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115–232), codified at 46 U.S.C. 54101. The statute authorizes the Maritime Administrator to provide assistance in the form of grants to make capital and related improvements in small shipyards and to provide training for workers in shipbuilding, ship repair, and associated industries. The Consolidated Appropriations Act, 2019, appropriated \$20,000,000 to the Small Shipyard Grant Program. The purpose of the Program is to foster efficiency, competitive operations, and quality ship construction, repair, and reconfiguration in small shipyards across the United States in addition to fostering employee skills and enhanced productivity related to shipbuilding, ship repair, and associated industries.

B. Federal Award Information

Under the Small Shipyard Grant Program, \$19,600,000 is available for grants for: (1) Capital and related improvements to qualified shipyard facilities that will be effective in fostering efficiency, competitive operations, and quality ship construction, repair, and

reconfiguration; and (2) training projects that would be effective in fostering employee skills and enhanced productivity related to shipbuilding, ship repair, and associated industries. The Maritime Administration intends to award the full amount of the available funding through grants to the extent that there are worthy applications. No more than 25 percent of the funds available will be awarded to shipyard facilities in one geographic location that have more than 600 production employees. The Maritime Administration will seek to obtain the maximum benefit from the available funding by awarding grants to as many of the worthiest projects as possible. The Maritime Administration may partially fund applications by selecting parts of the total project.

The start date and period of performance for each award will depend on the specific project and must be agreed to by the Maritime Administration. The Maritime Administration will administer each Small Shipyard Grant pursuant to a grant agreement with the Small Shipyard Grant recipient. Amounts awarded as a grant under this notice that are not expended by the recipient shall remain available to the Administrator for use for grants under this program, either in the same or different fiscal year as this notice.

C. Eligibility Information

To be selected for a Small Shipyard Grant, an applicant must be an Eligible Applicant and the project must be an Eligible Project.

1. Eligible Applicants

Section 54101, Title 46, United States Code, provides that shipyards can apply for grants. The shipyard facility for which a grant is sought must be in a single geographic location and may not have more than 1,200 production employees. The applicant must be the operating company of the shipyard facility. The shipyard facility must construct, repair, or reconfigure vessels 40 feet in length or greater for commercial or government use, or construct, repair, or reconfigure vessels 100 feet in length or greater for non-commercial vessels.

2. Cost Sharing or Matching

The Federal funds for any eligible project will not exceed 75 percent of the total cost of such project. The remaining portion of the cost shall be paid in funds from or on behalf of the recipient. The applicant is required to submit detailed financial statements and supporting documentation demonstrating how and when such matching requirement is

proposed to be funded as described below. The recipient's entire matching requirement must be paid prior to payment of any Federal funds for the project.

3. Eligible Projects

Eligible projects include: (1) Capital and related improvement projects that will be effective in fostering efficiency, competitive operations, and quality ship construction, repair, and reconfiguration; and (2) training projects that will be effective in fostering employee skills and enhanced productivity related to shipbuilding, ship repair, and associated industries. For capital improvement projects, all items proposed for funding must be new and to be owned by the applicant. For both capital improvement and training projects, all project costs, including the recipient's share, must be incurred after the date of the grant agreement.

D. Application and Submission Information

1. Address for Application

Applications must be filed on standard form SF-424, which is available on the Maritime Administration's website at www.marad.dot.gov.

2. Content and Form of Application Submission

Although the form is available electronically, the application must be filed in hard copy as indicated below due to the amount of information requested. Applicants must submit an original paper copy of the application, one additional paper copy of the application, and two CDs each containing a complete electronic version of the application in PDF format to: Associate Administrator for Business and Finance Development, Room W21-318, Maritime Administration, 1200 New Jersey Ave. SE, Washington, DC 20590. A shipyard facility in a single geographic location applying for multiple projects must do so in a single application. The application for a grant must include all of the following information as an addendum to form SF-424. The information should be organized in sections as described below:

Section 1: A description of the shipyard including (a) location of the shipyard; (b) a description of the shipyard facilities; (c) years in operation; (d) ownership; (e) customer base; (f) current order book including type of work; (g) vessels delivered (or major projects) over last 5 years; and (h) website address, if any.

Section 2: For each project proposed for funding the following must be included:

(a) A comprehensive detailed description of the project, including a statement of whether the project will replace existing equipment, and if so, the disposition of the replaced equipment.

(b) A description of the need for the project in relation to shipyard operations and business plan and an explanation of how the project will fulfill this need.

(c) A quantitative analysis demonstrating how the project will be effective in fostering efficiency, competitive operations, and quality ship construction, repair, or reconfiguration (for capital improvement projects) or how the project will be effective in fostering employee skills and enhanced productivity related to shipbuilding, ship repair, and associated industries. The analysis should quantify the benefits of the projects in terms of man-hours saved, dollars saved, percentages, or other meaningful metrics. The methodology of the analysis should be explained with assumptions used, identified, and justified.

(d) A detailed methodology and timeline for implementing the project.

(e) A detailed itemization of the cost of the project together with supporting documentation, including current vendor quotes and estimates of installation costs.

(f) A statement explaining if any elements of the project require action under the National Environmental Policy Act (42 U.S.C. 4321, *et seq.*) or require any licenses or permits.

Items 2(a) thru 2(f) should be repeated, in order, for each separate project included in the application.

Section 3: A table with a prioritized list of projects and total cost and Federal government share (in dollars) for each.

Section 4: A description of any existing programs or arrangements, if any, which will be used to supplement or leverage the Federal grant assistance.

Section 5: Shipyard company officer's certification of each of the following requirements:

(a) That the shipyard facility for which a grant is sought is in a single geographic location and (i) the shipyard facility has no more than 600 production employees, or (ii) the shipyard facility has more than 600 production employees, but less than 1200 production employees (the shipyard officer must certify to one or the other of (i) or (ii));

(b) That the applicant has the authority to carry out the proposed project; and

(c) In accordance with the Department of Transportation's regulation restricting lobbying, 49 CFR part 20, that the applicant has not, and will not, make any prohibited payments out of the requested grant. Certifications are not required to be notarized.

Section 6: Unique entity identifier of shipyard's parent company (when applicable); Data Universal Numbering System (DUNS + 4 number) (when applicable).

Section 7: The most recent year-end audited, reviewed, or compiled financial statements, prepared by a certified public accountant (CPA), per U.S. generally accepted accounting principles (not tax-based accounting financial statements). If CPA prepared financial statements are not available, provide the most recent financial statement for the entity. Do not provide tax returns.

Section 8: Statement regarding the relationship between applicants and any parents, subsidiaries or affiliates, if any such entity is going to provide a portion of the match.

Section 9: Evidence documenting applicant's ability to make proposed matching requirement (loan agreement, commitment from investors, cash on balance sheet, etc.) and in the times outlined in 2(d) above.

Section 10: Pro-forma financial statements reflecting (a) financial condition beginning of period; (b) effect on balance sheet of grant and matching funds (e.g., a decrease in cash or increase in debt, additional equity and an increase in fixed assets); and (c) impact on company's projected financial condition (balance sheet) of completion of project, showing that company will have sufficient financial resources to remain in business.

Section 11: Statement whether during the past five years, the applicant or any predecessor or related company has been in bankruptcy or in reorganization under Chapter 11 of the Bankruptcy Code, or in any insolvency or reorganization proceedings, and whether any substantial property of the applicant or any predecessor or related company has been acquired in any such proceeding or has been subject to foreclosure or receivership during such period. If so, give details.

Additional information may be requested as deemed necessary by the Maritime Administration to facilitate and complete its review of the application. If such information is not provided, the Maritime Administration may deem the application incomplete and cease processing it.

3. Unique Entity Identifier and System for Award Management (SAM)

The Maritime Administration may not make a Small Shipyard Grant Award to an applicant until the applicant has complied with all applicable unique entity identifier and SAM requirements. Each applicant must be registered in SAM before submitting its application, provide a valid unique entity identifier number in its application, and maintain an active SAM registration with current information throughout the period of the award. Applicants may register with the SAM at www.SAM.gov. If an applicant has not fully complied with the requirements by the submission deadline, the Maritime Administration may determine the applicant is not qualified to receive an award and use that determination as a basis for making a Federal award to another applicant.

4. Submission Dates and Times

Applications must be received by the Maritime Administration by 5:00 p.m. EDT on April 16, 2019. Applications received later than this time will not be considered. The Maritime Administration encourages applicants to submit applications using a carrier and method that will provide proof and time of delivery. The Administrator shall award grants under this section not later than 120 days after the date of the enactment of the appropriations Act for the fiscal year concerned.

5. Funding Restrictions

Grants under the Maritime Administration's Small Shipyard Grant Program may not be used to construct buildings or other physical facilities or to acquire land.

6. Other Submission Requirements

Applicants must submit an original paper copy of the application, one additional paper copy of the application, and two compact discs (CDs) each containing a complete electronic version of the application in PDF format to: Associate Administrator for Business and Finance Development, Room W21-318, Maritime Administration, 1200 New Jersey Ave. SE, Washington, DC 20590.

E. Application Review Information

1. Selection Criteria

This section specifies the criteria that the Maritime Administration will use to evaluate and award applications for Small Shipyard grants. The criteria incorporate the statutory eligibility requirements for this Program, which are specified in this notice as relevant.

Consistent with the requirements of 46 U.S.C. § 54101(b)(1), the Maritime Administration will evaluate the applications on the basis of how effective the project will be in fostering efficiency, competitive operations, and quality ship construction, repair, and reconfiguration (for capital improvement projects) or how effective the project will be in fostering employee skills and enhancing productivity related to shipbuilding, ship repair, and associated industries.

After applying the above preferences, the Maritime Administrator will consider the following key Departmental objectives:

- (A) Supporting economic vitality at the national and regional level;
- (B) Utilizing alternative funding sources and innovative financing models to attract non-Federal sources of infrastructure investment;
- (C) Accounting for the life-cycle costs of the project to promote the state of good repair;
- (D) Using innovative approaches to improve safety and expedite project delivery; and,
- (E) Holding grant recipients accountable for their performance and achieving specific, measurable outcomes identified by grant applicants.

2. Review and Selection Process

The Maritime Administration reviews all eligible applications received before the deadline. The Small Shipyard Grant review and selection process consists of three phases: Technical Review, Senior Review, and Final Selection. In the Technical Review phase, a Review Panel made up of technical experts, including naval architects and engineers from the Maritime Administration's Office of Shipyards and Marine Engineering will review all timely applications. Additional input may be provided to the Review Panel on economic issues by the Office of Financial Approvals, on environmental issues by the Office of Environment, and on legal issues by the Office of Chief Counsel. The Review Panel will assign a rating of "Highly Recommended," "Recommended," or "Not Recommended" based on how well the applications align with the selection criteria. As a secondary criteria, higher considerations for award shall be made if applicants' percentage match contribution toward the overall project is greater than the minimum and greater than other competing grant applications.

In the second review phase, the Senior Review Team, which is led by the Maritime Administrator, will consider applications based upon the input of the Review Panel. The Senior

Review Team will determine which projects to advance to the Secretary. In the third phase, the Secretary selects projects for final award.

3. FAPIIS Check

The Maritime Administration is required to review and consider any information about the applicant that is in the designated integrity and performance system accessible through SAM (currently FAPIIS) (see 41 U.S.C. 2313). An applicant, at its option, may review information in the designated integrity and performance systems accessible through SAM and comment on any information about itself that a Federal awarding agency previously entered and is currently in the designated integrity and performance system accessible through SAM. The Maritime Administration will consider any comments by the applicant, in addition to the other information in the designated integrity and performance system, in making a judgment about the applicant's integrity, business ethics, and record of performance under Federal awards when completing the review of risk posed by applicants.

F. Federal Award Administration Information

1. Federal Award Notices

Following the evaluation outlined in Section E, and after the required notice to Congress, the Maritime Administration will announce awarded projects by posting a list of selected projects at www.marad.dot.gov/ships-and-shipping/small-shipyard-grants. Following the announcement, the Maritime Administration will contact the point of contact listed in the SF-424 to initiate development of the grant agreement.

2. Administrative and National Policy Requirements

All awards must be administered pursuant to applicable Federal laws, rules, and regulations of the Maritime Administration.

Federal wage rate requirements included in Subchapter IV of Chapter 31 of Title 40, United States Code, apply to all projects receiving funds under this Program, and apply to all parts of the project, whether funded with Small Shipyard Grant funds, other Federal funds, or non-Federal funds.

3. Reporting

Each applicant selected for a Small Shipyard capital or training grant will be required to work with the Maritime Administration on the development and implementation of a plan to collect information and report on the project's

performance with respect to the relevant long-term outcomes that are expected to be achieved through the capital project or training. Performance indicators will not include formal goals or targets, but will require analysis of post-project outcomes, which will inform the Small Shipyard Grant Program in working towards best practices, programmatic performance measures, and future decision-making guidelines.

4. Requirements for Products Produced in the United States

Consistent with the requirements of Section 410 of Division G—Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2019, of the Consolidated Appropriations Act, 2019, (Pub. L. 116–6), the Buy American requirements of 41 U.S.C. Chapter 83 apply to funds made available under this notice.

G. Federal Awarding Agency Contacts

For further information concerning this notice please contact David M. Heller, Director, Office of Shipyards and Marine Engineering, Maritime Administration, Room W21–318, 1200 New Jersey Ave. SE, Washington, DC 20590; phone: (202) 366–5737; or fax: (202) 366–6988. To ensure applicants receive accurate information about eligibility or the Program, you are encouraged to contact the Maritime Administration directly, rather than through intermediaries or third parties, with questions.

H. Other Information

All information submitted as part of or in support of any application shall use publicly available data or data that can be made public and methodologies that are accepted by industry practice and standards, to the extent possible. If the application includes information you consider to be a trade secret or confidential commercial or financial information, you should do the following: (1) Note on the front cover that the submission “Contains Confidential Business Information (CBI);” (2) mark each affected page “CBI;” and (3) highlight or otherwise denote the CBI portions. The Maritime Administration protects such information from disclosure to the extent allowed under applicable law. In the event the Maritime Administration receives a Freedom of Information Act (FOIA) request for the information, the Maritime Administration will follow the procedures described in the Department of Transportation FOIA regulations at 49 CFR 7.17. Only information that is ultimately determined to be confidential

under that procedure will be exempt from disclosure under FOIA.

(Authority: 46 U.S.C. 54101 and the Consolidated Appropriations Act, 2019, Public Law 116–6)

* * * * *

Dated: March 5, 2019.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.

Secretary, Maritime Administration.

[FR Doc. 2019–04247 Filed 3–7–19; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2019–0031]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel BREAK TIME (37' Motor Vessel); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.
ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirements of the coastwise trade laws to allow the carriage of no more than twelve passengers for hire on vessels, which are three years old or more. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before April 8, 2019.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2019–0031 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Search MARAD–2019–0031 and follow the instructions for submitting comments.

- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2019–0031, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if

we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at www.regulations.gov, including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT:

Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email Bianca.carr@dot.gov.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel BREAK TIME is:

—*Intended Commercial Use of Vessel:* “Fishing charter”

—*Geographic Region Including Base of Operations:* “Wisconsin” (Base of Operations: Sheboygan, WI)

—*Vessel Length And Type:* 37' motor vessel

The complete application is available for review identified in the DOT docket as MARAD–2019–0031 at <http://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the vessel name, state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at <http://www.regulations.gov>, keyword search MARAD-2019-0031 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR-225, W24-220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to www.regulations.gov, as described in the system of records notice, DOT/ALL-14 FDMS, accessible through www.dot.gov/privacy. To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

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Dated: March 5, 2019.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2019-04216 Filed 3-7-19; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD-2019-0034]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel SUA SPONTE (30' Motor Vessel); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirements of the coastwise trade laws to allow the carriage of no more than twelve passengers for hire on vessels, which are three years old or more. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before April 8, 2019.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD-2019-0034 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Search MARAD-2019-0034 and follow the instructions for submitting comments.

- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD-2019-0034, 1200 New Jersey Avenue SE, West Building, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at www.regulations.gov, including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey

Avenue SE, Room W23-453, Washington, DC 20590. Telephone 202-366-9309, Email Bianca.carr@dot.gov.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel SUA SPONTE is:

—*Intended Commercial Use of Vessel:*

“The intended commercial use of this vessel regards solely to recreational sport fishing of 6 passengers or fewer. The sport fishing will result in NO resale of fish. This waiver is solely sought for reasons of National Maritime Vessel Documentation to fulfill boat builder requirements due to the fact that the builder of this vessel is no longer in business.”

—*Geographic Region Including Base of Operations:* “Ohio” (Base of Operations: Oak Harbor, Ohio)

—*Vessel Length and Type:* 30' motor vessel

The complete application is available for review identified in the DOT docket as MARAD-2019-0034 at <http://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the vessel name, state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at <http://www.regulations.gov>, keyword search MARAD-2019-0034 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for

new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR-225, W24-220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to www.regulations.gov, as described in the system of records notice, DOT/ALL-14 FDMS, accessible through www.dot.gov/privacy. To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

* * * * *

Dated: March 5, 2019.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2019-04210 Filed 3-7-19; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD-2019-0035]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel WILD DUCK (39' Fishing Vessel); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.
ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirements of the coastwise trade laws to allow the carriage of no more than twelve passengers for hire on vessels, which are three years old or more. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before April 8, 2019.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD-2019-0035 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Search MARAD-2019-0035 and follow the instructions for submitting comments.

- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD-2019-0035, 1200 New Jersey Avenue SE, West Building, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at www.regulations.gov, including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey

Avenue SE, Room W23-453, Washington, DC 20590. Telephone 202-366-9309, Email Bianca.carr@dot.gov.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel WILD DUCK is:

—*Intended Commercial Use of Vessel:*

“This fishing vessel is intended to carry 12 passengers on daily summertime trips in the Casco Bay area to provide live demonstrations hauling lobster traps. The purpose is to educate the general public on the lobstering traditions of Maine.”

—*Geographic Region Including Base of Operations:* “Maine” (Base of Operations: Portland, Maine)

—*Vessel Length and Type:* 39' Fishing Vessel

The complete application is available for review identified in the DOT docket as MARAD-2019-0035 at <http://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the vessel name, state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at <http://www.regulations.gov>, keyword search MARAD-2019-0035 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR-225, W24-220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to www.regulations.gov, as described in the system of records notice, DOT/ALL-14 FDMS, accessible through www.dot.gov/privacy. To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

* * * * *

Dated: March 5, 2019.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2019-04212 Filed 3-7-19; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD-2019-0033]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel NORTHSTREAM (71' Motor Vessel); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirements of the coastwise trade laws to allow the carriage of no more than twelve passengers for hire on vessels, which are three years old or more. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before April 8, 2019.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD-2019-0033 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Search MARAD-2019-0033 and follow the instructions for submitting comments.

- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD-201-0033, 1200 New Jersey Avenue SE, West Building, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at www.regulations.gov, including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT:

Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23-453, Washington, DC 20590. Telephone 202-366-9309, Email Bianca.carr@dot.gov.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel NORTHSTREAM is:

—*Intended Commercial Use of Vessel:* “This vessel will be made available for bareboat charter.”

—*Geographic Region Including Base of Operations:* “Washington State” (Base of Operations: Bellingham, WA)
—*Vessel Length and Type:* 71' motor vessel

The complete application is available for review identified in the DOT docket as MARAD-2019-0033 at <http://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the vessel name, state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at <http://www.regulations.gov>, keyword search MARAD-2019-0033 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department

of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR-225, W24-220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to www.regulations.gov, as described in the system of records notice, DOT/ALL-14 FDMS, accessible through www.dot.gov/privacy. To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

* * * * *

Dated: March 5, 2019.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2019-04214 Filed 3-7-19; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD-2019-0032]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel IRISH ROVER (40' Sailing Catamaran); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirements of the coastwise trade laws to allow the carriage of no more than twelve passengers for hire on vessels, which are three years old or more. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before April 8, 2019.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD-2019-0032 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Search MARAD-2019-0032 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD-2019-0032, 1200 New Jersey Avenue SE, West Building, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at www.regulations.gov, including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT:

Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23-453, Washington, DC 20590. Telephone 202-366-9309, Email Bianca.carr@dot.gov.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel IRISH ROVER is:

- Intended Commercial use of Vessel:* Single and multi-day sailing trips; We will also provide instruction aboard Irish Rover in sailing; handling a catamaran, overnight and long distance sailing, bareboat charter prep, etc
- Geographic Region Including Base of Operations:* “New Jersey; New York (excluding New York Harbor); Connecticut; Rhode Island; Massachusetts; Delaware; Maryland” (Base of Operations: Atlantic Highlands, NJ)
- Vessel Length and Type:* 40' sailing catamaran

The complete application is available for review identified in the DOT docket

as MARAD-2019-0032 at <http://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the vessel name, state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at <http://www.regulations.gov>, keyword search MARAD-2019-0032 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR-225, W24-220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible,

a summary of your submission that can be made available to the public.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to www.regulations.gov, as described in the system of records notice, DOT/ALL-14 FDMS, accessible through www.dot.gov/privacy. To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

* * * * *

Dated: March 5, 2019.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2019-04211 Filed 3-7-19; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. DOT-OST-2017-0069]

Notice of Review of Guidance

AGENCY: Office of the Secretary (OST); DOT.

ACTION: Notice.

SUMMARY: The U.S. Department of Transportation (the Department or DOT) is extending the comment period for its Notice of Review of Guidance by 30 days. The comment period was originally scheduled to end April 8, 2019. It will now end May 8, 2019.

DATES: Responses should be filed by May 8, 2019. The Department will continue to check the docket for late filed responses after the comment period closes.

ADDRESSES: You may file responses identified by the docket number DOT-OST-2017-0069 by any of the following methods:

- *Federal eRulemaking Portal:* go to <http://www.regulations.gov> and follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200

New Jersey Ave. SE, West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.

- *Hand Delivery or Courier:* West Building Ground Floor, Room W12-140, 1200 New Jersey Ave. SE, between 9:00 a.m. and 5:00 p.m. ET, Monday through Friday, except Federal holidays.
- *Fax:* (202) 493-2251.

Instructions: You must include the agency name and docket number DOT-OST-2017-0069 at the beginning of your submission. All submissions received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

Privacy Act: Anyone is able to search the electronic form of all submissions received in any of our dockets by the name of the individual submitting the document (or signing the submission, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78), or you may visit <http://DocketsInfo.dot.gov>.

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

FOR FURTHER INFORMATION CONTACT:

Jonathan Moss, Assistant General Counsel for Regulation, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590, 202-366-4723 (phone), jonathan.moss@dot.gov (email).

SUPPLEMENTARY INFORMATION:

On February 5, 2019, the Department issued a Notice of Review of Guidance (Notice) seeking comment from the public on guidance documents that (a) are no longer necessary; (b) spur cost-inducing action by the regulated entities; (c) are inconsistent or unclear; (d) may not be conducive to uniform or consistent enforcement; or (e) need to be updated to reflect developments that have taken place since the guidance was issued. DOT provided a 60-day comment period for responses to the Notice.

The Department received a request from the American Association of State Highway and Transportation Officials for a 30-day extension from the close of the comment period. The Department agrees that interested stakeholders could benefit from the extension. Accordingly, the Department extends the comment period for the Notice by 30 days. The comment period was originally scheduled to end April 8, 2019. It will now end May 8, 2019. Additionally, DOT will continue to check the docket

for late filed comments after the comment period closes.

Issued on March 1, 2019, in Washington, DC.

Steven G. Bradbury,
General Counsel.

[FR Doc. 2019-04227 Filed 3-7-19; 8:45 am]

BILLING CODE 4910-9X-P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Information Collection Renewal; Submission for OMB Review; Interagency Appraisal Complaint Form; Correction

AGENCY: Office of the Comptroller of the Currency, Treasury (OCC).

ACTION: Notice and request for comment; correction.

SUMMARY: The Office of the Comptroller of the Currency (OCC) published a document in the **Federal Register** of March 4, 2019, concerning a request for comment on an interagency appraisal complaint form. The document contained an incorrect date.

FOR FURTHER INFORMATION CONTACT:

Shaquita Merritt, OCC Clearance Officer, (202) 649-5490, Chief Counsel's Office, Office of the Comptroller of the Currency, 400 7th Street SW, Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of March 4, 2019, in FR Doc. 2019-03843, on page 7415, in the third column, correct the "Dates" caption to read:

DATES:

Comments must be received by April 8, 2019.

Dated: March 4, 2019.

Theodore J. Dowd,

Deputy Chief Counsel, Office of the Comptroller of the Currency.

[FR Doc. 2019-04237 Filed 3-7-19; 8:45 am]

BILLING CODE 4810-33-P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Relief for Service in Combat Zone and for Presidentially Declared Disaster

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before April 8, 2019 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at OIRA_Submission@OMB.EOP.gov and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW, Suite 8100, Washington, DC 20220, or email at PRA@treasury.gov.

FOR FURTHER INFORMATION CONTACT:

Copies of the submissions may be obtained from Jennifer Quintana by emailing PRA@treasury.gov, calling (202) 622-0489, or viewing the entire information collection request at www.reginfo.gov.

SUPPLEMENTARY INFORMATION:

Internal Revenue Service (IRS)

Title: Relief for Service in Combat Zone and for Presidentially Declared Disaster.

OMB Control Number: 1545-XXXX.

Type of Review: New collection.

Description: This collection covers the final rules to the Regulations on Procedure and Administration (26 CFR part 301) under section 7508 of the Internal Revenue Code (Code), relating to postponement of certain acts by reason of service in a combat zone, and section 7508A, relating to postponement of certain tax-related deadlines by reason of a Presidentially declared disaster. Section 7508A was added to

the Code by section 911 of the Taxpayer Relief Act of 1997, Public Law 105-34 (111 Stat. 788 (1997)), effective for any period for performing an act that had not expired before August 5, 1997.

In general, section 7508 provides that the time individuals serve in a combat zone plus 180 days will be disregarded in determining whether acts listed in section 7508(a)(1), such as filing returns, paying taxes, filing certain petitions with the Tax Court, filing a claim for credit or refund, bringing suit, and assessing tax, are performed within the time prescribed.

Form: 15109.

Affected Public: Individuals and households.

Estimated Number of Respondents: 20,000.

Frequency of Response: Annually.

Estimated Total Number of Annual Responses: 20,000.

Estimated Time per Response: 20 minutes.

Estimated Total Annual Burden Hours: 6,600.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: March 5, 2019.

Spencer W. Clark,

Treasury PRA Clearance Officer.

[FR Doc. 2019-04234 Filed 3-7-19; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF VETERANS AFFAIRS

Geriatrics and Gerontology Advisory Committee; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act that a meeting of the Geriatrics and Gerontology Advisory Committee will be held on April 10-11, 2019, at the Department of Veterans Affairs in Washington, DC. On April 10th, the session will be held at 810 Vermont Avenue NW, in room 630 and begin at 1:00 p.m. and end at 5:00 p.m. On April 11th, the session will be held at 810 Vermont Avenue NW, in

room 630 and begin at 8:00 a.m. and end at 4:00 p.m. A VANTS line has been established for both days: 1-800-767-1750, 78128#. This meeting is open to the public.

The purpose of the Committee is to provide advice to the Secretary of VA and the Under Secretary for Health on all matters pertaining to geriatrics and gerontology. The Committee assesses the capability of VA health care facilities and programs to meet the medical, psychological, and social needs of older Veterans, and evaluates VA programs designated as Geriatric Research, Education, and Clinical Centers.

The meeting will feature presentations and discussions on VA's geriatrics and extended care programs, aging research activities, updates on VA's employee staff working in the area of geriatrics (to include training, recruitment and retention approaches), Veterans Health Administration (VHA) strategic planning activities in geriatrics and extended care, recent VHA efforts regarding dementia and program advances in palliative care, and performance and oversight of VA Geriatric Research, Education, and Clinical Centers.

No time will be allocated at this meeting for receiving oral presentations from the public. Interested parties should provide written comments for review by the Committee to Mrs. Alejandra Paulovich, Designated Federal Officer, Geriatrics and Extended Care (10NC4), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, or via email at Alejandra.Paulovich@va.gov. Individuals who wish to attend the meeting should contact Ms. Paulovich at (202) 461-6016.

Dated: March 4, 2019.

LaTonya L. Small,

Federal Advisory Committee Management Officer.

[FR Doc. 2019-04158 Filed 3-7-19; 8:45 am]

BILLING CODE 8320-01-P



FEDERAL REGISTER

Vol. 84

Friday,

No. 46

March 8, 2019

Part II

The President

Proclamation 9848—National Consumer Protection Week, 2019

Executive Order 13861—National Roadmap to Empower Veterans and End Suicide

Presidential Documents

Title 3—

Proclamation 9848 of March 1, 2019

The President

National Consumer Protection Week, 2019

By the President of the United States of America**A Proclamation**

During National Consumer Protection Week, we redouble our efforts to prepare Americans to successfully navigate our dynamic market economy. Fraudulent and deceptive financial practices impede our economic success by depriving consumers of access to the best, most accurate information to guide their choices among competing goods and services.

We live in an age of rapidly evolving technology, in which more Americans conduct their personal and professional business on the internet and other mobile platforms. While these technological innovations provide convenience to consumers, they also create opportunities for scammers, hackers, and identity thieves to commit cybercrimes. Each year, fraudulent and deceptive practices cost Americans billions of dollars and generate hours of stress and hardship.

Whether managing bank accounts, paying bills, handling medical records, or engaging in e-commerce, basic consumer knowledge is critical to financial wellbeing. This includes being vigilant when providing personal information—such as social security and bank account numbers—online, over the phone, or by mail. Consumers should keep their software—including operating systems, web browsers, and applications—up to date. They should never provide personal or sensitive information to anyone who directly or unexpectedly contacts them. By taking these steps and sharing them with family and friends, especially children and older Americans, we can help protect against schemes to line the pockets of unscrupulous actors.

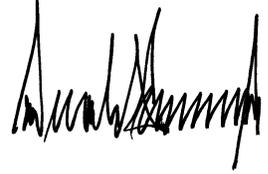
My Administration is strongly committed to protecting consumers from those who would defraud them. Last year, I signed into law the Economic Growth, Regulatory Relief, and Consumer Protection Act, which strengthens protections against identity theft by allowing consumers to contact each of the three major credit reporting agencies and freeze their credit reports for free. I also established the Task Force on Market Integrity and Consumer Fraud within the Department of Justice (DOJ) to provide recommendations on regulatory and legislative changes needed to improve the investigation and prosecution of fraud and other financial crimes that harm Americans. My Administration is also working to counter the growing threat of fraud committed against older Americans and has taken action to combat cyber fraud. In February 2018, the DOJ announced the largest coordinated sweep of elder fraud cases in history, as well as the indictment of 36 cyber criminals in one of the largest cyber fraud enterprise prosecutions ever.

National Consumer Protection Week is an opportunity to come together as government, industry, community groups, and organizations in support of a shared mission—protecting our Nation's consumers. This week, and throughout the year, I encourage Americans across our country to take advantage of resources that will help them better safeguard their personal and financial information so that they can continue to drive our dynamic economy for decades to come.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim March 3 through

March 9, 2019, as National Consumer Protection Week. I encourage individuals, businesses, organizations, government agencies, and community groups to take advantage of the broad array of online resources offered by the Federal Trade Commission and Consumer Financial Protection Bureau, and to share this information through consumer education activities in communities across the country.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of March, in the year of our Lord two thousand nineteen, and of the Independence of the United States of America the two hundred and forty-third.



Presidential Documents

Executive Order 13861 of March 5, 2019

National Roadmap to Empower Veterans and End Suicide

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. Purpose. On average, 20 service members and veterans die by suicide each day. As a Nation, we must do better in fulfilling our solemn obligation to care for all those who have served our country. I am therefore issuing a national call to action to improve the quality of life of our Nation's veterans—many of whom have risked their lives to protect our freedom while deployed, often multiple times, to areas of prolonged conflict.

Answering this call to action requires an aspirational, innovative, all-hands-on-deck approach to public health—not government as usual. The Federal Government alone cannot achieve effective or lasting reductions in the veteran suicide rate. This is not because of a lack of resources. It is, in fact, due substantially to a lack of coordination: Nearly 70 percent of veterans who end their lives by suicide have not recently received healthcare services from the Department of Veterans Affairs.

To reduce the veteran suicide rate, the Federal Government must work side-by-side with partners from State, local, territorial, and tribal governments—as well as private and non-profit entities—to provide our veterans with the services they need. At the same time, the Federal Government must advance our understanding of the underlying causal factors of veteran suicide. Our collective efforts must begin with the common understanding that suicide is preventable and prevention requires more than intervention at the point of crisis. The Federal Government, academia, employers, members of faith-based and other community, non-governmental, and non-profit organizations, first responders, and the veteran community must all work together to foster cultures in which veterans and their families can thrive.

The United States must develop a comprehensive national public health roadmap for preventing suicide among our Nation's veterans, with the aspiration of ending veteran suicide once and for all. This roadmap must be holistic and encompass the overall health and well-being of our Nation's veterans.

Sec. 2. Policy. It is the policy of the United States to end veteran suicide through the development of a comprehensive plan to empower veterans and end suicide through coordinated suicide prevention efforts, prioritized research activities, and strengthened collaboration across the public and private sectors. This plan shall be known as the President's Roadmap to Empower Veterans and End a National Tragedy of Suicide or PREVENTS (the "roadmap").

Sec. 3. Establishment of the Veteran Wellness, Empowerment, and Suicide Prevention Task Force. (a) There is hereby established the Veteran Wellness, Empowerment, and Suicide Prevention Task Force (Task Force), co-chaired by the Secretary of Veterans Affairs and the Assistant to the President for Domestic Policy (Co-Chairs).

(b) In addition to the Co-Chairs, the Task Force shall include the following officials, or their designees:

- (i) the Secretary of Defense;
- (ii) the Secretary of Labor;
- (iii) the Secretary of Health and Human Services;

- (iv) the Secretary of Housing and Urban Development;
- (v) the Secretary of Energy;
- (vi) the Secretary of Education;
- (vii) the Secretary of Homeland Security;
- (viii) the Director of the Office of Management and Budget;
- (iv) the Assistant to the President for National Security Affairs; and
- (x) the Director of the Office of Science and Technology Policy.

Sec. 4. *Additional Invitees.* As appropriate and consistent with applicable law, the Co-Chairs may, from time to time, invite the heads of other executive departments and agencies, or other senior officials in the White House Office, to attend meetings of the Task Force.

Sec. 5. *Development of the President's Roadmap to Empower Veterans and End a National Tragedy of Suicide.* (a) Within 365 days of the date of this order, the Task Force shall develop and submit to the President the roadmap to empower veterans to pursue an improved quality of life, prevent suicide, prioritize related research activities, and strengthen collaboration across the public and private sectors. The roadmap shall analyze opportunities to better harmonize existing efforts within Federal, State, local, territorial, and tribal governments, and non-governmental entities. The roadmap shall include:

- (i) the community integration and collaboration proposal described in section 6 of this order, which will better coordinate and align existing efforts and services for veterans and promote their overall quality of life;
- (ii) the research strategy described in section 7 of this order, which will advance my Administration's efforts to improve quality of life and reduce suicide among veterans by better integrating existing efforts of governmental and non-governmental entities and by improving the development and use of metrics to quantify progress of these efforts; and
- (iii) an implementation strategy that includes a description of policy changes and resources that may be required.

(b) In developing the roadmap, the Co-Chairs shall, at their discretion and in consultation with the other members of the Task Force, engage with:

- (i) State, local, territorial, and tribal officials;
- (ii) private healthcare and hospital systems, healthcare providers and clinicians, academic affiliates, educational institutions, and faith-based and other community, non-governmental, and non-profit organizations; and
- (iii) veteran and military service organizations.

Sec. 6. *State and Local Action.* Within 365 days of the date of this order, the Task Force shall submit a legislative proposal to the President through the Director of the Office of Management and Budget that establishes a program for making grants to local communities to enable them to increase their capacity to collaborate with each other to integrate service delivery to veterans and to coordinate resources for veterans. The legislative proposal shall promote the development of milestones and metrics in pursuit of:

(a) community integration that brings together veteran-serving organizations to provide veterans with better coordinated and streamlined access to a multitude of services and supports, including those related to employment, health, housing, benefits, recreation, education, and social connection; and

(b) promoting a stronger sense of belonging and purpose among veterans by connecting them with each other, with civilians, and with their communities through a range of activities, including physical activity, community service, and disaster response efforts.

Sec. 7. *Development of a National Research Strategy.* (a) Within 365 days of the date of this order, the Task Force shall, in coordination with the Director of the Office of Science and Technology Policy, develop a national

research strategy to improve the coordination, monitoring, benchmarking, and execution of public- and private-sector research related to the factors that contribute to veteran suicide.

(b) As the Task Force develops this national research strategy, the Co-Chairs may, at their discretion and in consultation with the other members of the Task Force, engage with the persons and entities described in section 5(b)(i) through (iii) of this order, as well as with Federal Government entities.

(c) The national research strategy shall include milestones and metrics designed to:

(i) improve our ability to identify individual veterans and groups of veterans at greater risk of suicide;

(ii) develop and improve individual interventions that increase overall veteran quality of life and decrease the veteran suicide rate;

(iii) develop strategies to better ensure the latest research discoveries are translated into practical applications and implemented quickly;

(iv) establish relevant data-sharing protocols across Federal partners that also align with the community collaboration outlined in section 6 of this order;

(v) draw upon technology to capture and use health data from non-clinical settings to advance behavioral and mental health research to the extent practicable;

(vi) improve coordination among research efforts, prevent unnecessarily duplicative efforts, identify barriers to or gaps in research, and facilitate opportunities for improved consolidation, integration, and alignment; and

(vii) develop a public-private partnership model to foster collaborative, innovative, and effective research that accelerates these efforts.

(d) The national research strategy shall not be limited to clinical or healthcare interventions, but should approach the problem of veteran suicide in a holistic manner to improve overall veteran quality of life.

Sec. 8. *Administrative Provisions.* (a) The Department of Veterans Affairs shall provide funding and administrative support as may be necessary for the performance and functions of the Task Force.

(b) The Secretary of Veterans Affairs, in consultation with the Assistant to the President for Domestic Policy, shall designate an official of the Department of Veteran Affairs to serve as Executive Director of the Task Force, responsible for coordinating its day-to-day functions. As necessary and appropriate, the Co-Chairs may afford the other members of the Task Force an opportunity to provide input into the decision of whom to designate as Executive Director.

Sec. 9. *Termination of the Task Force.* After submission of the roadmap described in section 5 of this order, the Task Force established in section 3 of this order shall monitor implementation of the roadmap. The Task Force shall terminate 2 years following the submission to the President of the roadmap.

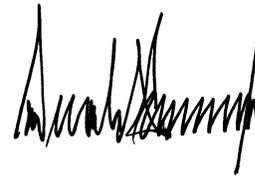
Sec. 10. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

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

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

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

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

A handwritten signature in black ink, appearing to be the signature of Donald Trump, located in the upper right quadrant of the page.

THE WHITE HOUSE,
March 5, 2019.

Reader Aids

Federal Register

Vol. 84, No. 46

Friday, March 8, 2019

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Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	202-741-6000
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Presidential Documents	
Executive orders and proclamations	741-6000
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Electronic and on-line services (voice)	741-6020
Privacy Act Compilation	741-6050

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FEDERAL REGISTER PAGES AND DATE, MARCH

6953-7260.....	1
7261-7792.....	4
7793-7978.....	5
7979-8244.....	6
8245-8408.....	7
8409-8588.....	8

CFR PARTS AFFECTED DURING MARCH

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR	73.....	7840
Proclamations:		
9845.....	8227	
9846.....	8229	
9847.....	8241	
9848.....	8583	
Executive Orders:		
13860.....	8407	
13861.....	8585	
Administrative Orders		
Notices:		
Notice of March 4, 2019.....	7975	
Notice of March 4, 2019.....	7977	
Notice of March 5, 2019.....	8245	
5 CFR		
Proposed Rules:		
532.....	8043	
7 CFR		
210.....	6953, 8247	
235.....	6953, 8247	
986.....	8409	
1145.....	6961	
Proposed Rules:		
301.....	7304	
9 CFR		
Proposed Rules:		
160.....	8476	
161.....	8476	
162.....	8476	
10 CFR		
429.....	8411	
430.....	8411	
Proposed Rules:		
40.....	6979	
73.....	6980	
12 CFR		
1005.....	7979	
1248.....	7793	
Proposed Rules:		
1026.....	8479	
14 CFR		
25.....	8248	
39.....	6962, 7261, 7264, 7266, 7269, 7272, 7801, 7804, 8250	
71.....	6965, 6966, 7274, 7808, 8413, 8414, 8415	
73.....	8251	
Proposed Rules:		
39.....	6981, 6984, 7832, 7835, 8482	
71.....	6987, 7306, 7308, 7837, 7839	
15 CFR		
Proposed Rules:		
774.....	8485	
16 CFR		
Proposed Rules:		
24.....	8045	
17 CFR		
270.....	7980	
274.....	7980	
18 CFR		
4.....	7988	
11.....	7988	
37.....	8156	
45.....	7274	
46.....	7274	
Proposed Rules:		
33.....	7309	
21 CFR		
573.....	7991	
884.....	7993	
Proposed Rules:		
864.....	8047	
22 CFR		
Proposed Rules:		
121.....	8486	
25 CFR		
575.....	6967	
26 CFR		
1.....	7283	
Proposed Rules:		
1.....	6988, 8050, 8051, 8188, 8488	
20.....	8278	
301.....	8488	
29 CFR		
Proposed Rules:		
1206.....	6989	
30 CFR		
1241.....	8416	
32 CFR		
48.....	7810	
337.....	6968	
33 CFR		
100.....	7285, 7810	
110.....	7810	
117.....	8418	
147.....	7810	
165.....	6969, 6972, 7285, 7288, 7290, 7292, 7810, 7995,	

7997, 8252, 8420	39 CFR	Proposed Rules:	64.....7315
Proposed Rules:	3020.....7815	406.....7610	76.....8278
100.....6989, 7310	Proposed Rules:	407.....7610	
117.....6992, 7842	111.....7005	422.....7610, 8069	
165.....6994, 8051, 8489	3050.....8066	423.....7610	
34 CFR	40 CFR	431.....7610	
400.....7294	49.....7823	438.....7610	
401.....7294	51.....8422	457.....7610	
402.....7294	52.....7299, 7823, 7998, 8257,	482.....7610	
403.....7294	8260, 8422	485.....7610	
406.....7294	60.....8260	43 CFR	
410.....7294	61.....8260	10.....6975	
411.....7294	62.....8001, 8262	45 CFR	
413.....7294	63.....7682, 7825, 8260	1148.....8003	
461.....6974	70.....8260	Proposed Rules:	
Proposed Rules:	271.....8260	156.....7610	
Ch. III.....8054, 8059	281.....8260	170.....7424	
36 CFR	Proposed Rules:	171.....7424	
Proposed Rules:	52.....7313, 7846, 7854, 7858,	47 CFR	
60.....6996	8491, 8492	27.....8443	
63.....6996	63.....8069	36.....6977	
38 CFR	81.....8492	54.....8003	
17.....7813, 8254	258.....8496	64.....8457	
Proposed Rules:	271.....7010	Proposed Rules:	
4.....7844	42 CFR	1.....8497	
	59.....7714		

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion

in today's **List of Public Laws**.

Last List February 26, 2019

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